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53 P.S. § 28101

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Purdon's Pennsylvania Statutes Annotated

Title 53. Municipal and Quasi-municipal Corporations ([Refs & Annos](#))

Part III. Cities of the Second Class

[Chapter 67](#). Intergovernmental Cooperation Authority Act for Cities of the Second Class

[Chapter 1](#). General Provisions

→ § 28101. Short title

This act shall be known and may be cited as the Intergovernmental Cooperation Authority Act for Cities of the Second Class.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 101](#), imd. effective.

HISTORICAL AND STATUTORY NOTES

2004 Main Volume

Title of Act:

An Act providing for intergovernmental cooperation in cities of the second class; establishing an intergovernmental authority; providing for financing, for bankruptcy and for sovereign immunity; and making an appropriation. 2004, Feb. 12, P.L. 73, No. 11.

53 P.S. § 28101, PA ST 53 P.S. § 28101

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→ § 28102. Purpose and legislative intent

(a) Policy.--It is hereby declared to be a public policy of the Commonwealth to exercise its retained sovereign powers with regard to taxation and matters of Statewide concern in a manner calculated to foster the fiscal integrity of cities of the second class to assure that these cities provide for the health, safety and welfare of their citizens; pay principal and interest owed on their debt obligations when due; meet financial obligations to their employees, vendors and suppliers; and provide for proper financial planning procedures and budgeting practices. The inability of a city of the second class to provide essential services to its citizens as a result of a fiscal emergency is hereby determined to affect adversely the health, safety and welfare not only of the citizens of that municipality but also of other citizens in this Commonwealth.

(b) Legislative intent.--

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

(i) provide cities of the second class with the legal tools with which such cities can perform essential municipal services; and

(ii) foster sound financial planning and budgetary practices for cities of the second class, which 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 and authorities;

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

(D) increased collection of existing tax revenues;

(E) privatization or outsourcing 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

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

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(2) The General Assembly further declares that this legislation is intended to remedy the apparent fiscal emergency confronting cities of the second class through the implementation of sovereign powers of the Commonwealth. 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 second class.

(3) It is further declared that this legislation is intended to operate concurrently and equally with the act of July 10, 1987 (P.L. 246, No. 47), [\[FN1\]](#) known as the Municipalities Financial Recovery Act.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 102](#), imd. effective.

[\[FN1\] 53 P.S. § 11701.101](#) et seq.

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→ § 28103. Legislative findings

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

- (1) Cities of the second class have encountered recurring financial difficulties which may affect the performance of necessary municipal services to the detriment of the health, safety and general welfare of residents of such cities.
- (2) It is critically important that cities of the second class maintain their creditworthiness.
- (3) Due to the economic and social interrelationship among all citizens in our economy, the fiscal integrity of cities of the second class is a matter of concern to residents of the entire Commonwealth, and the financial problems of such cities have a direct and negative effect on the entire Commonwealth.
- (4) Because cities of the second class consume a substantial proportion of the products of Pennsylvania's farms, factories, manufacturing plants and service enterprises, economic difficulties confronting cities of the second class detrimentally affect the economy of the Commonwealth as a whole and become a matter of Statewide concern.
- (5) Because residents of cities of the second class contribute a substantial proportion of all Commonwealth tax revenues, a disruption of the economic and social life of such cities may have a significant detrimental effect upon Commonwealth revenues.
- (6) The financial difficulties of cities of the second class can best be addressed and resolved by cooperation between governmental entities.
- (7) The Constitution of Pennsylvania grants municipalities authority to cooperate with other governmental entities in the exercise of any function or responsibility.
- (8) The Commonwealth retains certain sovereign powers with respect to cities of the second class, among them the powers to authorize and levy taxes, to authorize the incurring of indebtedness and to provide financial assistance that may be necessary to assist cities in solving their financial problems.
- (9) The Commonwealth may attach conditions to grants of authority to incur indebtedness or assistance to cities of the second class in order to ensure that deficits are eliminated and access to capital markets is achieved and maintained.
- (10) Such conditions shall be incorporated into intergovernmental cooperation agreements between the Commonwealth or its instrumentalities and cities of the second class.
- (11) Cities of the second class and the Commonwealth will benefit from the creation of an independent authority

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composed of members experienced in finance and management which may advise such cities, the General Assembly and the Governor concerning solutions to fiscal problems cities of the second class may face.

(12) The creation of such an authority will allow such cities to continue to provide the necessary municipal services for their residents and to contribute to the economy of the Commonwealth.

(13) Several task forces have studied the fiscal condition of a city of the second class and have published findings and suggestions regarding the fiscal structure of the city and actions that could be taken concerning preservation of the financial viability of the city into the future. Those reports, widely known as the Competitive Pittsburgh report, the PGH 21 report and the Governor's Pittsburgh Economic Improvement Task Force report, should be evaluated by the authority in making its recommendations to the city. However, it is intended that the authority established by this act examine the fiscal affairs of the entire city of the second class, including all of its authorities and related corporate entities.

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[2004, Feb. 12, P.L. 73, No. 11, § 103](#), imd. effective.

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→ § 28104. 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 second class which receives assistance from the Intergovernmental Cooperation Authority for Cities of the Second Class. The term includes any municipal authority, other authority or other corporate entity which directly or indirectly performs a governmental function on behalf of the city, is directly or indirectly controlled by the city or to which the city has direct or indirect power of appointment or has directly or indirectly pledged or designated the city's revenues or the city's credit.

"Authority." The Intergovernmental Cooperation Authority for Cities of the Second Class established in section 201. [\[FN1\]](#)

"Board." The governing board of the Intergovernmental Cooperation Authority for Cities of the Second Class.

"City." A city of the second class.

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

"Corporate entity." A municipal authority, other authority or other corporate entity which performs a governmental function on behalf of the city or to which the city has power of appointment or has pledged or designated revenues.

"Deficit." Such negative fund balance in any principal operating fund or funds of a city or corporate entity existing at the beginning of a fiscal year or projected to exist as of the close of a fiscal year, as may be more specifically identified, calculated and set forth in an intergovernmental cooperation agreement or financial plan of an assisted city described in section 209. [\[FN2\]](#)

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"Federal agency." The United States, the President of the United States and any department or corporation, agency or instrumentality created, designated or established by the United States.

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

"Government agency." The Governor, departments, boards, commissions, authorities and other officers and agencies of State government, including those which are not subject to the policy supervision and control of the Governor, any political subdivision, municipal or other local authority and any officer or agency of any such political subdivision or local authority, but the term does not include any court or other officer or agency of the unified judicial system or the General Assembly or its officers and agencies.

"Intergovernmental cooperation agreement." Any agreement made by the authority and a city under the provisions of section 203(d). [\[FN3\]](#)

"Party officer." The following members or officers of any political party:

- (1) a member of a national committee;
- (2) a chairman, vice chairman, secretary, treasurer or counsel of a State committee or member of the executive committee of a State committee;
- (3) a county chairman, vice chairman, counsel, secretary or treasurer of a county committee; or
- (4) a chairman, vice chairman, counsel, secretary, treasurer or ward leader of a city or municipal committee.

"Public official." Any elected or appointed official or employee in the executive, legislative or judicial branch of the Commonwealth or any political subdivision thereof, provided that it shall not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense or to otherwise exercise the power of the Commonwealth or any political subdivision thereof. The term shall not include any appointed official who receives no compensation other than reimbursement for actual expenses.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 104](#), imd. effective.

[\[FN1\]](#) [53 P.S. § 28201](#).

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[\[FN2\] 53 P.S. § 28209.](#)

[\[FN3\] 53 P.S. § 28203.](#)

53 P.S. § 28104, PA ST 53 P.S. § 28104

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→ § 28201. Authority established

A body corporate and politic to be known as the Intergovernmental Cooperation Authority for Cities of the Second Class is established as a public authority and instrumentality of the Commonwealth, exercising public powers of the Commonwealth as an agency and instrumentality thereof. The exercise by the authority of the powers conferred by this act is hereby declared to be and shall for all purposes be deemed and held to be the performance of an essential public function.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 201](#), imd. effective.

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→ § 28202. Governing board

(a) Composition of board.--

(1) The powers and duties of the authority shall be exercised by a governing board composed of five members:

(i) One member shall be appointed by the President pro tempore of the Senate.

(ii) One member shall be appointed by the Minority Leader of the Senate.

(iii) One member shall be appointed by the Speaker of the House of Representatives.

(iv) One member shall be appointed by the Minority Leader of the House of Representatives.

(v) One member shall be appointed by the Governor.

(vi) The Secretary of the Budget and the director of finance of each assisted city shall serve as ex officio members of the board. The board and any appointed coordinator shall cooperate in the sharing of reports, information and recommendations with regard to the assisted city. The ex officio members may not vote and shall not be counted for purposes of establishing a quorum. The Secretary of the Budget and the director of finance of each assisted city may designate in writing a representative of their respective offices to attend meetings of the board on their behalf.

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

(3) All members of the board must be residents of this Commonwealth and, except the Secretary of the Budget, must either be residents of the assisted city or have their primary places of business or employment in that city.

(b) Term.--Appointing authorities shall appoint the initial members of the board within seven days of the effective date of this act, and the appointed members shall select a chairperson from among themselves at the initial organizational meeting of the board and upon any subsequent vacancy in the office of chairperson. The term of a board member shall begin on the date of the appointment. A member's term shall be coterminous with that of the appointing authority. The member selected as chairperson shall serve in that capacity for two years from the date of selection or for the duration of his term on the board, whichever is less, and may be reelected to subsequent two-year terms. An appointed board member shall serve at the pleasure of the member's appointing authority. Whenever a vacancy occurs among the appointed members on the board, whether prior to or on the expiration of a term, the appointing authority who originally appointed the board member whose seat has become vacant shall appoint a successor member within 30 days of the vacancy. A member appointed by an appointing authority to fill a

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vacancy occurring prior to the expiration of a term shall serve the unexpired term.

(c) Organization.--The appointees of the President pro tempore of the Senate and the Speaker of the House of Representatives shall set a date, time and place for the initial organizational meeting of the board within five days of the appointment of the initial members of the board. The initial organizational meeting shall be held within 15 days of the effective date of this act. In addition to the [\[FNI\]](#) chairperson, the members shall elect such other officers as they may determine. A member may hold more than one office of the board at any time.

(d) Meetings.--After the initial organizational meeting, the board shall meet as frequently as it deems appropriate but at least once during each quarter of the fiscal year. In addition, a meeting of the board shall be called by the chairperson if a request for a meeting is submitted to the chairperson by at least two members of the board. A majority of the board shall constitute a quorum for the purpose of conducting the business of the board and for all other purposes. All actions of the board shall be taken by a majority of the board except as otherwise specifically noted. The provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings) shall apply to the board.

(e) Expenses.--A member shall not receive compensation or remuneration but shall be entitled to reimbursement for all reasonable and necessary actual expenses.

(f) Employees and agents.--The board shall fix and determine the number of employees of the authority and their respective compensation and duties. The board may contract for or receive the loan of services of persons in the employ of other government agencies, and other government agencies shall be authorized to make such employees available. The board may retain an executive director upon a majority vote. The board may, by a majority vote, hire an independent general counsel to the authority and may engage consultants and contract for other professional services upon a majority vote. The board may, upon the approval of a majority, delegate to the executive director such powers of the board as the board deems necessary to carry out the purposes of the authority, subject in every case to the supervision and control of the board.

(g) Public officials and party officers; conflicts of interest prohibited.--

(1) Except for the Secretary of the Budget, neither members of the board nor the executive director shall seek or hold a position as any other public official within this Commonwealth or as a party officer while in the service of the authority. Members of the board and the executive director shall not seek election as public officials or party officers for one year after their service with the authority. Members of the board and the executive director may serve as appointive public officials any time after their periods of service with the authority.

(2) Employees and agents of the authority shall not seek or hold other positions as public officials or party officers while in the employ of the authority. The authority may receive the loan of services of persons in other government agencies in accordance with subsection (f), notwithstanding that such persons are public officials. Employees of the authority shall not seek election as public officials or party officers for one year after leaving the employ of the authority.

(3) No member of the board or employee of the authority may directly or indirectly be a party to or be interested in any contract or agreement with the authority or with the assisted city. No member or employee may use his office or employment or any confidential information received through his office or employment for the private

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pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. Any member or employee who shall willfully violate this provision shall forfeit his office or employment and shall be subject to such other criminal and civil sanctions as may be imposed by law. Any contract or agreement knowingly made in contravention of this provision is void.

(h) Statutes applying to authority.--

(1) The provisions of the following acts shall apply to the authority:

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

(ii) The act of June 21, 1957 (P.L. 390, No. 212), [\[FN2\]](#) referred to as the Right-to-Know Law.

(iii) Except as set forth in paragraph (2), the act of July 19, 1957 (P.L. 1017, No. 451), [\[FN3\]](#) known as the State Adverse Interest Act.

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

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

(i) Advisory committee.--

(1) The board may appoint by majority vote one advisory committee comprised of professionals engaged in municipal management and finance or other experts as it may deem necessary. The members of an advisory committee shall reside within an assisted city or a county within the statistical metropolitan area in which the assisted city is located.

(2) The provisions of subsection (g) shall be applicable to members of an advisory committee; however, the board may allow city council to designate a liaison from city council to serve on an advisory committee.

(3) The advisory committee shall consist of no more than six members, excluding any council liaison.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 202](#), imd. effective.

[\[FN1\]](#) "the" omitted in enrolled bill.

[\[FN2\]](#) [65 P.S. § 66.1](#) et seq.

[\[FN3\]](#) [71 P.S. § 776.1](#) et seq.

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→ § 28203. Powers and duties

(a) **General powers and duties.**--The authority is established for the purposes, without limitation, by itself or by agreement in cooperation with others, of assisting cities in solving their budgetary and financial problems.

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

(1) To assist cities in achieving financial stability in any manner consistent with the purposes and powers described by this act.

(2) To assist cities in avoiding defaults, eliminating and financing deficits and debts, maintaining sound budgetary practices and avoiding the interruption of municipal services.

(3) To negotiate intergovernmental cooperation agreements with cities containing such terms and conditions as will enable such cities to eliminate and avoid deficits, maintain sound budgetary practices and avoid interruption of municipal services.

(4) To make annual signed reports within 120 days after the close of the assisted city's fiscal year, commencing with the fiscal year ending December 31, 2003, to the Governor and the General Assembly describing the city's financial condition and the authority's progress with respect to restoring the financial stability of assisted cities and achieving balanced budgets for assisted cities. Such reports shall be filed with the Governor, with the presiding officers of the Senate and the House of Representatives, with the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and the minority chairperson of the Appropriations Committee of the House of Representatives and with the governing body, mayor and controller of the assisted city and be publicly available in the assisted city during normal business hours for public inspection, and may be reproduced by any member of the public at commercial costs of reproduction. Such report shall clearly show by consistent category the last five years of operating revenues and expenditures, capital expenditures, gross and net indebtedness transactions, including a schedule of principal and interest, five-year projections of the assisted city's operating and capital budgets, and the entire projected indebtedness transactions, including a schedule of principal and interest of such indebtedness until any and all debt has been completely retired. Such report shall contain a narrative explaining progress of the assisted city in meeting its annual and five-year budgetary objectives, an appraisal by the authority of the progress the assisted city is making to achieve its goals and an appraisal of the extent to which the assisted city is making a good faith effort to achieve its goals. Such report shall disclose any violations of Federal and State law that the authority may have discovered. Such report shall include as appendixes all historical loans or other contracts entered into by the assisted city and its authorities.

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

- (1) To obtain copies of all reports and documents regarding the revenues, expenditures, budgets, deficits, debts, costs, plans, operations, estimates and any other financial or budgetary matters of an assisted city.
- (2) To obtain additional reports and information on the above matters in such form as are deemed necessary by the authority.
- (3) To make factual findings concerning an assisted city's budgetary and fiscal affairs.
- (4) To make recommendations to an assisted city and the General Assembly concerning the budgetary and fiscal affairs of the assisted city, which shall include consideration of the following issues and other issues at the discretion of the authority:
 - (i) Consolidation or merger of services performed by an assisted city, school, county or other surrounding municipality.
 - (ii) Consolidation of public safety services.
 - (iii) Appropriate staffing levels of city departments and corporate entities.
 - (iv) Cooperative agreements or contractual arrangements between health care facilities licensed by the Department of Health.
 - (v) Financial or contractual obligations of the assisted city.
 - (vi) Contributions of nonprofit or charitable organizations which receive the benefit of municipal services provided by the assisted city.
 - (vii) Reduction or restructuring of debt obligations.
 - (viii) Cooperative agreements between the assisted city and the county in which it is located or municipalities which border the assisted city.
 - (ix) Cooperative agreements between the assisted city and the school district in which it is located.
 - (x) Collective bargaining agreements and other contracts of the assisted city.
 - (xi) Elimination, sale or transfer of assisted city services or property.
 - (xii) Implementation of cost-saving measures by the assisted city.
 - (xiii) Increased managerial accountability.
 - (xiv) Performance of government operations and delivery of municipal services.
 - (xv) Reevaluation of tax exemption policies and practices with regard to real property taxation within the assisted city.
 - (xvi) Improvements in procurement practices.
 - (xvii) Implementation of user fees for services, including sewage, water treatment and refuse collection.

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- (xviii) Privatization and outsourcing of appropriate assisted city services.
 - (xix) Increased collection of fines and costs relating to parking violations or violations of other city ordinances.
 - (xx) Competitive bidding of appropriate assisted city services, and competitive bidding practices.
 - (xxi) The use of technology to achieve cost savings.
 - (xxii) A study of health care and other benefits offered by the assisted city to its employees.
 - (xxiii) The sale of the assisted city's workers' compensation fund.
 - (xxiv) The sale of unencumbered assets of the assisted city or its authorities.
 - (xxv) The elimination or reorganization of authorities or departments.
 - (xxvi) The use by the assisted city of tax and other revenues received, including those received under the act of July 28, 1953 (P.L. 723, No. 230), [\[FN1\]](#) known as the Second Class County Code, and the proper use of such revenues.
 - (xxvii) The use of budgetary practices and principles as they relate to forecasting, public openness, projections, estimates, tax policy, lending, borrowing and strategic planning.
 - (xxviii) The transfers of employees and assets by and between bureaus, departments and authorities of the assisted city.
 - (xxix) Prior suggestions published by others prior to the enactment of this act with regard to the assisted city.
 - (xxx) A review of the taxing authority of the city as compared with the taxing authority of school districts of the first class A.
 - (xxxi) A review of the ratio of debt service to general fund outlays of the assisted city, the appropriate ratio and the means to achieve it.
 - (xxxii) A review of outstanding debt, debt payments and the ability to prepay such debt.
- (5) To make recommendations to the Governor and the General Assembly regarding legislation or resolutions which relate to an assisted city's fiscal stability. The authority shall submit a preliminary report of the recommendations to the Governor and the General Assembly within 60 days of the effective date of this act. The report shall include, but not be limited to, recommendations as to whether or not the city needs additional revenues, the best sources of such revenues and ways for the city to reduce expenditures. Any recommendations for new revenue, if warranted, shall state whether such revenues should be earmarked for specific expenditures, including, but not limited to, prepayment of debt, and whether such revenues should be subject to sunset provisions.
- (6) To exercise powers of review concerning the budgetary and fiscal affairs of the assisted city consistent with this act and the city's home rule charter or other optional plan of government.
- (7) To receive revenues from any source, directly or by assignment, pledge or otherwise.
- (8) To sue and be sued, implead and be impleaded, interplead, complain and defend in all courts.
- (9) To adopt, use and alter at will a corporate seal.
- (10) To make bylaws for the management and regulation of its affairs and adopt rules, regulations and policies in

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connection with the performance of its functions and duties which, notwithstanding any other provision of law to the contrary, shall not be subject to review pursuant to the act of June 25, 1982 (P.L. 633, No. 181), [\[FN2\]](#) known as the Regulatory Review Act.

(11) To make and enter into contracts and other instruments necessary or convenient for the conduct of its business and the exercise of the powers of the authority.

(12) To appoint officers, agents, employees and servants and to prescribe their duties and to fix their compensation as set forth in section 202(f). [\[FN3\]](#)

(13) To retain counsel and auditors to render such professional services as the authority deems appropriate. The authority shall not be considered either an executive agency or an independent agency for the purpose of the act of October 15, 1980 (P.L. 950, No. 164), [\[FN4\]](#) known as the Commonwealth Attorneys Act, but shall possess the same status for such purpose as the Auditor General, State Treasurer and the Pennsylvania Public Utility Commission, except that the provisions of section 204(b) and (f) of the Commonwealth Attorneys Act [\[FN5\]](#) shall not apply to the authority; notwithstanding 42 Pa.C.S. Ch. 85 (relating to matters affecting government units), the authority, through its legal counsel, shall defend actions brought against the authority or its members, officers, officials and employees when acting within the scope of their official duties.

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

(15) To acquire, by gift or otherwise, purchase, hold, receive, lease, sublease and use any franchise, license, property, real, personal or mixed, tangible or intangible or any interest therein. However, the authority shall be absolutely limited in its power to acquire real property under this act to real property that will be used only for the office space in which the authority will conduct its daily business if necessary. If possible, an assisted city shall provide office space to the authority at no cost to the authority as part of an intergovernmental cooperation agreement.

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

(17) To enter into contracts for group insurance and to contribute to retirement plans for the benefit of its employees and to enroll its employees in an existing retirement system of a government agency.

(18) To accept, purchase or borrow equipment, supplies, services or other things necessary or convenient to the work of the authority from other government agencies, and all government agencies are authorized to sell, lend or grant to the authority such equipment, supplies, services or other things necessary or convenient to the work of the authority.

(19) To invest any funds held by the authority as set forth in section 212. [\[FN6\]](#)

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

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

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

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

(d) Intergovernmental cooperation agreements.--The authority shall have the power and its duty shall be to enter into and to implement fully such intergovernmental cooperation agreements with cities as are approved by a

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majority of the board. The following shall apply:

(1) A city may enter into an intergovernmental cooperation agreement in which it, consistent with this act, covenants to cooperate or agree in the exercise of any function, power or responsibility with, or delegate or transfer any function, power or responsibility to, the authority upon the adoption by the governing body of such city of an ordinance authorizing and approving the intergovernmental cooperation agreement.

(2) An ordinance that authorizes a city to enter into an intergovernmental cooperation agreement with the authority shall specify:

(i) the purpose and objectives of the agreement;

(ii) the conditions of the agreement; and

(iii) the term of the agreement, including provisions relating to its termination.

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

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 203](#), imd. effective.

[\[FN1\] 16 P.S. § 3101](#) et seq.

[\[FN2\] 71 P.S. § 745.1](#) et seq.

[\[FN3\] 53 P.S. § 28202](#).

[\[FN4\] 71 P.S. § 732-101](#) et seq.

[\[FN5\] 71 P.S. § 732-204](#).

[\[FN6\] 53 P.S. § 28212](#).

53 P.S. § 28203, PA ST 53 P.S. § 28203

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→ § 28204. Term of existence

The authority shall exist for a term of at least seven years. If, after seven years, an assisted city has had annual operating budgets and five-year financial plans approved by the board for at least the three immediately preceding years, the Secretary of Community and Economic Development shall certify that the authority is no longer needed, and the provisions of this chapter will no longer be in effect 90 days following that certification. Upon termination of the authority, records and documents of the authority shall be transferred to the director of finance of the assisted city. The authority shall submit a final report on its activities and the city's fiscal condition to the Governor and the General Assembly within 60 days of its termination.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 204](#), imd. effective.

53 P.S. § 28204, PA ST 53 P.S. § 28204

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→ § 28205. Fiscal year

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

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 205](#), imd. effective.

53 P.S. § 28205, PA ST 53 P.S. § 28205

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→ § 28206. Annual budget of authority

(a) **Budget.**--Before March 1, 2004, for the fiscal year July 1, 2004, to June 30, 2005, and before October 15, 2005, and each October 15 thereafter, the authority shall adopt a budget by a majority of the board setting forth in reasonable detail the projected expenses of operation of the authority for the ensuing fiscal year, including the salary and benefits of the executive director and any other employees of the authority, and the projected revenues of the authority to be derived from investment earnings and any other moneys of the authority which are estimated to be available to pay the operating expenses set forth in the budget. A copy of the authority's budget shall be submitted to the Governor and to the General Assembly. The authority or its designated representatives may be afforded an opportunity to appear before the Governor and the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives regarding the authority's budget.

(b) **Limit on operating expenses.**--Following the submission of the authority's budget to the Governor and the General Assembly and any hearing held by an appropriations committee under subsection (a), the General Assembly, by concurrent resolution with presentment to the Governor, in accordance with [section 9 of Article III of the Constitution of Pennsylvania](#), may limit the operating expenses of the authority. In that event, it shall be unlawful for the authority to spend more for operating expenses than the limit established for that fiscal year by the concurrent resolution. If the General Assembly does not adopt a concurrent resolution prior to May 30, the authority's budget shall be deemed approved for that fiscal year.

(c) **Funding.**--After July 1, 2005, upon request of the authority and pursuant to the limits established in subsection (b), the city shall annually fund any portion of the budget of the authority which exceeds the authority's State appropriation, including its reasonable and necessary expenses and costs incurred for consultants engaged by the board to carry out its duties.

(d) **Examination of books.**--The chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives shall have the right at any time to examine the books, accounts and records of the authority.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 206](#), imd. effective.

53 P.S. § 28206

53 P.S. § 28206, PA ST 53 P.S. § 28206

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→§ 28207. Annual report to be filed; annual audits

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

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 207](#), imd. effective.

53 P.S. § 28207, PA ST 53 P.S. § 28207

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→ § 28208. Limit on city borrowing

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

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 208](#), imd. effective.

53 P.S. § 28208, PA ST 53 P.S. § 28208

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→ § 28209. **Financial plan of an assisted city**

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

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

(1) Projected revenues and expenditures of the principal operating fund or funds of the assisted 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 assisted city to access short-term and long-term credit markets.

(c) Standards for formulation of plan.--

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

(2) All revenue and appropriation estimates shall be on a modified accrual basis in accordance with generally accepted standards agreed to by the authority such as those promulgated by the Governmental Accounting Standards Board. Revenue estimates shall recognize revenues in the accounting period in which they become

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both measurable and available. Estimates of city-generated revenues shall be based on current or proposed tax rates, historical collection patterns and generally recognized econometric models. Estimates of revenues to be received from the State government shall be based on historical patterns, currently available levels or on levels proposed in a budget by the Governor. Estimates of revenues to be received from the Federal Government shall be based on historical patterns, currently available levels or on levels proposed in a budget by the President or in a congressional budget resolution. Nontax revenues shall be based on current or proposed rates, charges or fees, historical patterns and generally recognized econometric models. Appropriation estimates shall include, at a minimum, all obligations incurred during the fiscal year and estimated to be payable during the fiscal year or in the 24-month period following the close of the current fiscal year and all obligations of prior fiscal years not covered by encumbered funds from prior fiscal years. Any deviations from these standards of estimating revenues and appropriations proposed to be used by an assisted city shall be specifically disclosed and shall be approved by a majority of the board.

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

(d) Form of plan.--Each financial plan shall, consistent with the requirements of an assisted city's home rule charter or optional plan of government:

(1) be in such form and shall contain:

(i) for each of the first two fiscal years covered by the financial plan, such information as shall reflect an assisted city's total expenditures by fund and by lump sum amount for each board, commission, department or office of an assisted city; and

(ii) for the remaining three fiscal years of the financial plan, such information as shall reflect an assisted city's total expenditures by fund and by lump sum amount for major object classification;

(2) include projections of all revenues and expenditures for five fiscal years, including, but not limited to, projected capital expenditures and short-term and long-term debt incurrence and cash flow forecasts by fund for the first year of the financial plan;

(3) include a schedule of projected capital commitments of the assisted city and proposed sources of funding for such commitments; and

(4) be accompanied by a statement describing in reasonable detail the significant assumptions and methods of estimation used in arriving at the projections contained in such plan.

(e) Annual submission of plan.--Within 90 days of the effective date of this section, an assisted city shall develop, and the authority shall review and act upon, an initial five-year financial plan which includes a report on the status of implementation of prior published suggestions regarding consolidation and cost savings. During each subsequent fiscal year, 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

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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;

(iii) is based upon prudent, reasonable and appropriate assumptions and methods of estimation; and

(iv) complies with any balanced budget requirements contained in the charter and ordinances of the city or State law.

(f) Balanced budget requirement.--The mayor of every city and assisted city shall submit, and the city council of every city and assisted city shall adopt, a balanced budget each year consistent with the requirements of [53 Pa.C.S. § 3016](#) (relating to form and adoption of budget) and the city's or assisted city's home rule charter or other optional plan of government. A balanced budget of a city or assisted city shall not include projected revenues that in order to be collected require the enactment by the General Assembly of new taxing powers or the approval of a court of common pleas of the county in which the city or assisted city is located. The failure of a city or assisted city to comply with this subsection shall result in the withholding of Commonwealth funds pursuant to section 210(e) and (f). [\[FN1\]](#)

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

(1) The authority shall promptly review each financial plan, proposed operating budget and capital budget submitted by the assisted city. In conducting such review, the authority shall request from the city controller of the assisted city an opinion or certification, prepared in accordance with generally accepted auditing standards, with respect to the reasonableness of the assumptions and estimates in the financial plan. The city controller and other elected officials shall comply with any such request from the authority. Not more than 30 days after submission of a financial plan and proposed operating budget, the authority shall determine whether:

(i) the financial plan projects balanced budgets, based upon prudent, reasonable and appropriate assumptions as described in this section, for each year of the plan; and

(ii) the proposed operating budget and capital budget are consistent with the proposed financial plan. If the authority determines that these criteria are satisfied, the authority shall approve such financial plan by a majority vote.

(2) The authority shall not be bound by any opinions or certifications of the city controller of the assisted city issued pursuant to this subsection.

(3) If the authority fails to take any action within 30 days on a financial plan, the financial plan as submitted shall be deemed approved. However, if, during the 30 days a written request by two members of the authority board for a meeting and vote on the question of approval of the financial plan has been submitted to the chairperson and a meeting and vote do not take place, the financial plan shall be deemed disapproved.

(h) Authority disapproval of plan.--

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(1) If the authority disapproves the proposed financial plan, the authority shall, when it notifies an assisted city of its decision, state in writing in reasonable detail the reasons for such disapproval, including the amount of any estimated budget imbalance.

(2) The assisted city shall submit a revised financial plan to the authority within 15 days of such disapproval, which revised plan eliminates the budget imbalance. Not more than 15 days after the submission of such revised financial plan, the authority shall determine whether the revised plan satisfies the criteria set forth in subsection (g)(1). If the authority determines that these criteria are satisfied, the authority shall approve such financial plan by a majority vote. If the authority shall not so approve the financial plan, then the authority shall, in accordance with section 210(e), certify the assisted city's noncompliance with the financial plan to the Secretary of the Budget, the President pro tempore of the Senate and the Speaker of the House of Representatives.

(i) Revisions to plan.--

(1) 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 a 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. An assisted 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.

(2) The authority shall review each proposed revision within 20 days of its submission. The authority shall approve the revision if it will not, based on prudent, reasonable and appropriate assumptions, cause the plan to become imbalanced. Proposed revisions shall become part of the financial plan upon the approval of a majority of the authority board unless some other method of approval is permitted by authority rules and regulations approved by a majority or pursuant to an agreement with the city contained in an intergovernmental cooperation agreement. If the authority fails to take action within 20 days on a proposed revision, such submission shall be deemed approved unless a written request for a meeting and vote has been made in accordance with subsection (g)(3), in which event, if a meeting and vote do not take place, the proposed revision shall be deemed disapproved.

(3) If the governing body of a city adopts a budget inconsistent with an approved financial plan, the assisted city shall submit the enacted budget to the authority as a proposed revision to the plan. The authority shall review the proposed revision within 30 days of its submission in accordance with the criteria set forth in subsection (g) and the approval process set forth in paragraph (2).

(j) Supplemental reports.--Within 45 days of the end of each fiscal quarter, or monthly if a variation from the financial plan has been determined in accordance with section 210(c), the mayor or chief executive officer of an assisted city shall provide the authority with reports describing actual or current estimates of revenues and expenditures compared to budgeted revenues and expenditures for such period reflected in its cash flow forecast. Each report required under this section shall indicate any variance between actual or current estimates and budgeted revenues, expenditures and cash for the period covered by such report. An assisted city shall also provide periodic reports on debt service requirements in conformity with section 210(b).

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

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

(2) After the approval by the authority of a financial plan submitted pursuant to this section, an assisted city shall

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execute contracts and collective bargaining agreements in compliance with such plan. If an assisted city executes a contract or a collective bargaining agreement which is not in compliance with the plan, the contract or agreement shall not be void or voidable solely by reason of such noncompliance, but the assisted city shall submit to the authority a proposed revision to the plan which demonstrates that revenues sufficient to pay the costs of the contract or collective bargaining agreement will be available in the affected fiscal years of the plan.

(l) Effect of plan upon certain arbitration awards.--

(1) After the approval by the authority of a financial plan submitted pursuant to this section, any determination of a board of arbitration established pursuant to the provisions of the act of June 24, 1968 (P.L. 237, No. 111), [\[FN2\]](#) referred to as the Policemen and Firemen Collective Bargaining Act, providing for an increase in wages or fringe benefits of any employee of an assisted city under the plan, in addition to considering any standard or factor required to be considered by applicable law, shall take into consideration and accord substantial weight to:

(i) the approved financial plan; and

(ii) relevant market factors, such as the financial situation of the assisted city, inflation, productivity, size of work force and pay and benefit levels in economically and demographically comparable political subdivisions.

(2) Such determination shall be in writing and a copy thereof shall be forwarded to each party to the dispute and the authority. Any determination of the board of arbitration which provides for an increase in wages or fringe benefits of any employee of an assisted city shall state with specificity in writing all factors which the board of arbitration took into account in considering and giving substantial weight to the factors referred to in paragraph (1).

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

(i) consideration under paragraph (1); or

(ii) failure of the board of arbitration to issue a determination under paragraph (2).

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

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

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

(ii) that the board of arbitration has failed to issue a determination under paragraph (2).

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

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 209](#), imd. effective.

53 P.S. § 28209

[\[FN1\] 53 P.S. § 28210.](#)

[\[FN2\] 43 P.S. § 217.1](#) et seq.

53 P.S. § 28209, PA ST 53 P.S. § 28209

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→ § 28210. Powers and duties of authority with respect to financial plans

(a) Formulation and approval of plan.--To advance the financial recovery of each assisted city, the authority shall require the assisted city to submit a five-year financial plan in accordance with section 209. [\[FN1\]](#) 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.
- (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).

(b) Authority functions after plan is approved.--After a financial plan has been approved, the authority shall:

- (1) Receive and review:
 - (i) the financial reports submitted by the mayor or chief executive officer of a city under section 209(j);
 - (ii) reports concerning the debt service requirements on all bonds, notes of the assisted city and lease payments of the assisted city securing bonds or other government agencies for the following quarter, which reports shall be in such form and contain such information as the authority shall determine and which shall be issued no later than 60 days prior to the beginning of the quarter to which they pertain and shall be updated immediately upon each issuance of bonds or notes by the assisted city or execution of a lease securing bonds of another government agency after the date of such report to reflect any change in debt service requirements as a result of such issuance; and

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(iii) any additional information provided by the assisted city concerning changed conditions or unexpected events which may affect the assisted city's adherence to the financial plan. The reports described in subparagraph (ii) shall be certified by the city controller.

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

(c) Variation from the plan.--If the authority determines, based upon reports submitted by an assisted city under subsection (b) or independent audits, examinations or studies of the assisted city's finances obtained under subsection (i)(3), that an assisted city's actual revenues and expenditures vary from those estimated in the financial plan, the authority shall require the city to provide such additional information as the authority deems necessary to explain the variation. The authority shall take no action with respect to an assisted city for departures from the financial plan in a fiscal quarter if:

(1) the city provides a written explanation for the variation that the authority deems reasonable;

(2) the city proposes remedial action which the authority believes will restore the assisted city's overall compliance with the financial plan;

(3) information provided by the city in the immediately succeeding quarterly financial report demonstrates that the assisted city is taking such remedial action and otherwise complying with the plan; and

(4) the assisted city submits monthly supplemental reports in accordance with section 209(j) until it regains compliance with the financial plan.

(d) Authority may make recommendations.--The authority may at any time issue recommendations as to how an assisted city may achieve compliance with the financial plan and shall provide copies of such recommendations to the mayor or chief executive officer and the governing body of the city and to the officials named in section 203(b)(4). [\[FN2\]](#)

(e) When Commonwealth shall withhold funds.--

(1) The authority shall certify to the Secretary of the Budget an assisted city's noncompliance with the financial plan during any period when the authority has determined by the vote of a majority that the assisted city has not adhered to the plan and has not taken acceptable remedial action during the next quarter following such departure from the plan.

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

(i) has no financial plan approved by the authority, has failed to provide requested documents or has failed to file a financial plan with the authority; or

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

(3) If the authority certifies that an assisted city is not in compliance with the financial plan under paragraph (1) or (2), the Secretary of the Budget shall notify the city that such certification has been made and that each grant, loan, entitlement or payment to the assisted city by the Commonwealth shall be suspended pending compliance

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with the financial plan. Funds withheld shall be held in escrow by the Commonwealth until compliance with the plan is restored as set forth in paragraph (4). Funds held in escrow pursuant to this subsection shall not lapse pursuant to section 621 of the act of April 9, 1929 (P.L. 177, No. 175), [\[FN3\]](#) known as The Administrative Code of 1929, or any other law.

(4) The authority shall, by majority vote, determine when the conditions which caused an assisted city to be certified as not in compliance with the financial plan have ceased to exist and shall promptly notify the Secretary of the Budget of such vote. The Secretary of the Budget shall thereupon release all funds held in escrow, together with all interest and income earned thereon during the period held in escrow, and the disbursements of amounts in the city account shall resume.

(f) Exemptions.--Notwithstanding the provisions of subsection (e), the following shall not be withheld from an assisted city:

- (1) funds granted or allocated to an assisted city directly from an agency of the Commonwealth or from the Federal Government for distribution by the Commonwealth after the declaration of a disaster resulting from a catastrophe;
- (2) funds for capital projects under contract in progress;
- (3) pension fund payments required by law; and
- (4) funds the assisted city has pledged to repay bonds or notes.

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

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

(i) Documents and examinations to be reviewed or undertaken by the authority.-- The authority shall:

- (1) receive from an assisted city and review the reports, documents, budgetary and financial planning data and other information prepared by or on behalf of such assisted city and which are to be made available to the authority under this act;
- (2) inspect and copy such books, records and information of an assisted city as the authority deems necessary to accomplish the purposes of this act; and
- (3) conduct or cause to be conducted such independent audits, examinations or studies of an assisted city's finances as the authority deems appropriate.

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(j) Remedies of authority for failure of an assisted city to file financial plans and reports.--In the event that an assisted city shall fail to file with the authority any financial plan, revision to a financial plan, report or other information required to be filed with the authority pursuant to this act, the authority, in addition to all other rights which the authority may have at law or in equity, shall have the right by mandamus to compel the assisted city and the officers, employees and agents thereof to file with the authority the financial plan, revision to a financial plan, report or other information which the assisted city has failed to file. The authority shall give the assisted city written notice of the failure of the assisted city to file and of the authority's intention to initiate an action under this subsection and shall not initiate such an action earlier than ten days after the giving of such notice.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 210](#), imd. effective.

[\[FN1\] 53 P.S. § 28209](#).

[\[FN2\] 53 P.S. § 28203](#).

[\[FN3\] 71 P.S. § 240.1](#) et seq.

CROSS REFERENCES

Limitation of authority powers, see [53 P.S. § 28705](#).

53 P.S. § 28210, PA ST 53 P.S. § 28210

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→§ 28211. 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, 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 adjustments of debts of a municipality) 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.

(b) Bankruptcy filing approval.--In addition to the limitation set forth in subsection (a) and notwithstanding any other provision of law, no city shall be authorized to file a petition for relief under 11 U.S.C. Ch. 9 or any successor Federal bankruptcy law unless such petition has been submitted to, and the filing thereof has been approved in writing, by the Governor. The Governor is designated in accordance with [11 U.S.C. § 109\(c\)\(2\)](#) (relating to who may be a debtor) as the organization of the Commonwealth which shall have power to approve or disapprove the filing of any such petition of a political subdivision and to approve or disapprove any plan of readjustment of the debts of any such political subdivision prepared, filed and submitted with the petition to the court, as provided under 11 U.S.C. Ch. 9.

(c) Review of bankruptcy petition.--

(1) When any such petition shall be submitted to the Governor for approval, accompanied with a proposed plan of readjustment of the debts of a city, the Governor shall make a careful and thorough investigation of the financial condition of such city, of its assets and liabilities, of its sinking fund and whether the affairs thereof are managed in a careful, prudent and economic manner in order to ascertain whether the presentation of such petition is justified or represents an unjust attempt by such city to evade payment of some of its contractual obligations and, if the Governor believes that such petition should be approved, whether the plan of readjustment submitted will be helpful to the financial condition of the city and is feasible and, at the same time, fair and equitable to all creditors.

(2) The Governor shall also, prior to giving his approval, ascertain the amount, if any, of the obligations of any such petitioning city which is held by any agency or agencies of the State government as trust funds and shall, before approving any such petition and plan of readjustment, consult with and give every such agency an opportunity to be heard and the privilege to examine the findings of the Governor resulting from the investigation required to be made under this act and shall likewise hear any other creditor of such city, whether resident in or outside this Commonwealth, who shall apply therefor.

(3) The Governor, if he approves a petition, shall, before giving his approval, require such modification in the proposed plan for readjusting the debts as to him appears proper.

53 P.S. § 28211

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 211](#), imd. effective.

53 P.S. § 28211, PA ST 53 P.S. § 28211

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53 P.S. § 28212



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→ § 28212. Investment of funds

Funds of the authority which are not required for immediate use may be invested in obligations of an assisted city or in obligations of the Federal Government or of the Commonwealth or obligations which are legal investments for Commonwealth funds. However, no money may be invested in obligations issued by or obligations guaranteed by an assisted city without the approval of a majority of the board.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 212](#), imd. effective.

53 P.S. § 28212, PA ST 53 P.S. § 28212

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53 P.S. § 28213

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→ § 28213. Sovereign immunity

Members of the board shall not be liable personally for any obligations of the authority. It is hereby declared to be the intent of the General Assembly that the authority created by this act and its members, officers, officials and employees shall enjoy sovereign and official immunity as provided in [1 Pa.C.S. § 2310](#) (relating to sovereign immunity reaffirmed; specific waiver) and shall remain immune from suit except as provided by and subject to the provisions of [42 Pa.C.S. §§ 8501](#) (relating to definitions) through 8528 (relating to limitations on damages).

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 213](#), imd. effective.

53 P.S. § 28213, PA ST 53 P.S. § 28213

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53 P.S. § 28701

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→ § 28701. Appropriation

The sum of \$200,000 is hereby appropriated from the General Fund to the Intergovernmental Cooperation Authority for Cities of the Second Class as a continuing appropriation for the purpose of providing operating funds for the Intergovernmental Cooperation Authority for Cities of the Second Class. This appropriation shall lapse June 30, 2005.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 701](#), imd. effective.

53 P.S. § 28701, PA ST 53 P.S. § 28701

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53 P.S. § 28702

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→ § 28702. General rights and prohibitions

Nothing in this act shall limit the rights or impair the obligations of any assisted city to comply with the provisions of any contract in effect on the effective date of this act or shall in any way impair the rights of the obligees of any assisted city with respect to any such contract.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 702](#), imd. effective.

53 P.S. § 28702, PA ST 53 P.S. § 28702

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53 P.S. § 28703

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→ § 28703. Nondiscrimination

The authority shall comply in all respects with the nondiscrimination and contract compliance plans used by the Department of General Services to assure that all persons are accorded equality of opportunity in employment and contracting by the authority and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 703](#), imd. effective.

53 P.S. § 28703, PA ST 53 P.S. § 28703

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53 P.S. § 28704

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→ § 28704. Construction of act

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

(b) Severability.--If any provision of the title or any chapter, section or clause of this act or the application thereof to any person, party or [\[FN1\]](#) corporation, public or private, shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of the title or any chapter or any section or clause of this act or the application of any part thereof to any other person, party, corporation, public or private, or circumstance, and to this end the provisions of the title or any chapter, section or clause of this act hereby are declared to be severable. It is hereby declared as the legislative intent that this act would have been adopted had any provision declared unconstitutional not been included herein.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 704](#), imd. effective.

[\[FN1\]](#) "party, corporation," in enrolled bill.

53 P.S. § 28704, PA ST 53 P.S. § 28704

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53 P.S. § 28705

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→ § 28705. Limitation of authority powers

Except as provided in section 210(i), [\[FN1\]](#) nothing contained in this act shall be construed to confer upon the authority any powers with respect to a school district.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 705](#), imd. effective.

[\[FN1\]](#) [53 P.S. § 28210](#).

53 P.S. § 28705, PA ST 53 P.S. § 28705

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53 P.S. § 28706

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→ § 28706. Repeal

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 706](#), imd. effective.

53 P.S. § 28706, PA ST 53 P.S. § 28706

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53 P.S. § 28707

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→ § 28707. Effective date

This act shall take effect immediately.

CREDIT(S)

[2004, Feb. 12, P.L. 73, No. 11, § 707](#), imd. effective.

53 P.S. § 28707, PA ST 53 P.S. § 28707

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