

No. 1977-66

AN ACT

HB 949

Amending the act of July 12, 1972 (P.L.781, No.185), entitled, as amended, "An act providing debt limits for local government units, including municipalities and school districts; providing the methods of incurring, evidencing, securing and collecting debt; defining the powers and duties of the Department of Community Affairs and certain other public officers and agencies with respect thereto; exercising the inherent legislative authority of the General Assembly by providing additional over-all limitations on the incurring of lease rental and other obligations for the acquisition of capital assets to be repaid from the general tax revenues of such local government units; imposing penalties for filing false or untrue statements or refusing to give information with respect to proceedings for the incurring of debt; and conferring jurisdiction on the Commonwealth Court with respect to certain proceedings relating to the incurring of debt," further providing for unfunded debt.

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

Section 1. Sections 509 and 510, act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," are amended to read:

Section 509. Unfunded Debt.—Unfunded debt shall mean obligations of the same or a prior year [**properly contracted**] *incurred or to be incurred* for current expenses (including tax anticipation notes), [**due and owing, which**] *when* the taxes and other revenues remaining to be collected in the fiscal year and funds on hand will not be sufficient to pay *such obligations* without a curtailment of municipal services to an extent endangering the health or safety of the public or proper education of school children, and the local government unit either may not legally levy a sufficient tax for the balance of the fiscal year, or a sufficient tax, if legally leviable, would be seriously regressive and not in the public interest.

Section 510. Procedure to Fund Unfunded Debt.—Whenever the governing body of a local government unit shall be of opinion that it has outstanding unfunded debt, it may, with the approval of the department, in the cases covered by section 511 of this act, fund such unfunded debt by electoral or by nonelectoral debt within the limits prescribed by Article II of this act, or it may, in the cases covered by section 512 of this act, petition the [**Commonwealth Court**] *court of common pleas of the county where the local government unit is located* for leave to fund such unfunded debt pursuant to the provisions of this Article V.

Section 2. Section 512 of the act, subsection (a) amended December 21, 1973 (P.L.434, No.153), is amended to read:

Section 512. Approval by Court.—(a) In all cases not covered in

section 511, including cases covered thereby in which the funding debt would exceed applicable debt limitations, the local government unit shall, ***except as provided for in subsection (a.1)***, by petition to the court of common pleas of the county where the local government unit is located setting forth the facts, request approval for the issuance of notes to fund the unfunded debt. After hearing, on such notice to the local government unit and its taxpayers as the court may prescribe, the court shall make an order granting authority to fund all or a part of such unfunded debt if the court shall find that such unfunded debt was lawfully incurred, that there has been an unforeseeable decline in revenues, or that taxes levied have not produced the revenues anticipated or that it was not reasonable to foresee such obligation; that paying such debt by curtailing municipal services will be dangerous to the public health, safety or education, and that it is not feasible to levy additional taxes in the current fiscal year. The funding debt so approved shall be stated to mature in such amounts and over such number of years, *not exceeding ten*, as the court shall find will accomplish the payment of the debt without endangering the rendering of municipal services or requiring the levying of excessive taxes. The provisions of section 409 of this act shall not be applicable to such notes. If the funding of the unfunded debt has not been approved by a vote of the people, the order of the court shall fix the portion thereof, if any, which shall not be charged against the nonelectoral debt limitations of the local government unit under section 202 of this act, during the time such funding debt is outstanding, so as to leave some available borrowing capacity for other situations. The percentages fixed by section 202 of this act shall be deemed increased to the extent required for such funding debt.

(a.1) Notwithstanding the provisions of section 511 or of subsection (a) of this section, school districts of the first class may, by petition to the court of common pleas of the county where the local government unit is located setting forth the facts, request approval for the issuance of bonds or notes to fund the unfunded debt. After hearing on such notice to the local government unit and its taxpayers as the court may prescribe, the court shall make an order granting authority to fund all or a part of such unfunded debt if the court shall find that paying such debt by curtailing municipal or educational services will be dangerous to the public health, safety or education, that the funding debt does not exceed applicable debt limitations and that it is not feasible for school districts of the first class to levy additional taxes in the current fiscal year. The funding debt so approved shall be stated to mature in such amounts and over such number of years, not exceeding ten, as the court shall find will accomplish the payment of the debt without endangering the rendering of municipal or educational services or requiring the levying of excessive taxes. The provisions of section 409 shall not be applicable to such bonds or notes. The funding of the unfunded debt shall be charged against the nonelectoral debt limitations of the school district of the first class under section 202.

(b) The funding debt so authorized by the court shall be issued and sold by the governing body as provided by this act, except that no approval of the department shall be required, but the local government unit shall file a certified copy of the proceeding together with a certified copy of the order of the court in the office for the recording of deeds in and for the county in which such local government unit is located prior to the delivery of any bonds or notes evidencing such debt.

(c) The provisions of this section are hereby declared and found as a legislative determination to be substantive and not procedural.

Section 3. This amendatory act shall take effect immediately and shall expire on June 30, 1978, but such expiration shall not effect the validity of any obligation outstanding hereunder.

APPROVED—The 2nd day of November, A. D. 1977.

MILTON J. SHAPP