

No. 1984-104

## AN ACT

SB 1432

Implementing the provisions of the referendum, approved by the electors, for the incurrence of indebtedness of \$190,000,000 for the economic redevelopment of the Commonwealth through grants, loans, loan guarantees and investments for industrial and business development, including small business and minority business development; acquisition of equipment for vocational programs in secondary schools, community colleges and engineering degree-granting schools; agricultural development; and the acquisition, rehabilitation or development of facilities for community services and public recreation.

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

Section 1. Short title.

This act shall be known and may be cited as the Pennsylvania Economic Revitalization Act.

Section 2. Legislative findings and declaration of purpose.

(a) Industrial and business development.—The General Assembly finds that, pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania, the voters of the Commonwealth approved by referendum of April 10, 1984, the incurring of indebtedness of \$190,000,000 to promote economic redevelopment throughout Pennsylvania through job producing programs; grants and loans for industrial and small business development; acquisition of equipment for vocational programs in secondary schools, community colleges and engineering degree-granting schools; agricultural development; and the acquisition, rehabilitation or development of facilities for community services and public recreation purposes, by providing for grants, loans, loan guarantees and investments to promote the economic redevelopment of the Commonwealth and to implement the approved referendum.

(b) Purpose of act.—It is the purpose of this act to implement section 5 of the act of February 24, 1984 (P.L.99, No.19), entitled “An act authoriz-

ing the indebtedness, with the approval of the electors, of \$190,000,000 to promote economic redevelopment throughout Pennsylvania through job producing programs; grants and loans for industrial and small business development; acquisition of equipment for vocational programs in secondary schools, community colleges and engineering degree-granting schools; agricultural development; and the acquisition, rehabilitation or development of facilities for community services and public recreation purposes," by providing for grants, loans, loan guarantees and investments to promote the economic redevelopment of the Commonwealth and to implement the approved referendum.

### Section 3. Pennsylvania Economic Revitalization Fund.

(a) Creation.—There is hereby created a special fund in the State Treasury to be known as the Pennsylvania Economic Revitalization Fund dedicated to the purposes specified in the act of February 24, 1984 (P.L.99, No.19), entitled "An act authorizing the indebtedness, with the approval of the electors, of \$190,000,000 to promote economic redevelopment throughout Pennsylvania through job producing programs; grants and loans for industrial and small business development; acquisition of equipment for vocational programs in secondary schools, community colleges and engineering degree-granting schools; agricultural development; and the acquisition, rehabilitation or development of facilities for community services and public recreation purposes," and as the General Assembly shall, by law, provide.

(b) Operation of fund.—The Pennsylvania Economic Revitalization Fund shall be the fund from which all moneys are appropriated to carry out the purposes authorized in the referendum pursuant to the act of February 24, 1984 (P.L.99, No.19) and as the General Assembly shall, by law, provide. Any moneys repaid to the Commonwealth from programs funded through the Pennsylvania Economic Revitalization Fund shall be deposited in a restricted receipt account and shall remain in such account until the General Assembly, by law, provides for their utilization and expenditure. Funds required to retire bonds issued pursuant to this act shall be appropriated from the General Fund.

### Section 4. Borrowing authorized.

(a) Authority to borrow.—Pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania and the referendum approved by the electorate, the issuing officials are authorized and directed to borrow, on the credit of the Commonwealth, money not exceeding in the aggregate the sum of \$190,000,000, not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be found necessary to carry out the purposes of this act.

(b) Issuance of general obligation bonds.—As evidence of the indebtedness authorized in this act, general obligation bonds of the Commonwealth shall be issued, from time to time, to provide moneys necessary to carry out the purposes of this act for such total amounts, in such form, in such denominations and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the issuing officials direct, except that the latest stated maturity date shall not exceed 30 years from the date of the first obligation issued to evidence the debt.

(c) Execution of bonds.—All bonds and notes issued under the authority of this act shall bear facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth and shall be countersigned by a duly authorized officer of a duly authorized loan and transfer agent of the Commonwealth.

(d) Direct obligation of Commonwealth.—All bonds and notes issued in accordance with the provisions of this section shall be direct obligations of the Commonwealth and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon, as it becomes due, and the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States.

(e) Exemption from taxation.—All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes except as may be provided under Article XVI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(f) Form of bonds.—The bonds may be issued as coupon bonds or registered as to both principal and interest as the issuing officials may determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(g) Bond amortization.—The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt so that the bonds of each issue allocated to the programs to be funded from the bond issue shall mature within a period not to exceed the appropriate amortization period for each program as specified by the issuing officials but in no case in excess of 20 years. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements.

(h) Refunding bonds.—The issuing officials are authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of the outstanding debt or to provide funds to redeem and retire the outstanding debt with accrued interest, any premium payable thereon and the costs of issuance and retirement of the debt, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect to the same shall be governed by the provisions of this section, insofar as they may be applicable. Refunding bonds, which are not subject to the aggregate limitation of \$190,000,000 of debt to be issued pursuant to this act, may be issued by the issuing officials to refund debt originally issued or to refund bonds previously issued for refunding purposes.

(i) Quorum.—Whenever any action is to be taken or decision made by the Governor, the Auditor General and the State Treasurer acting as issuing officials and the three officers are not able unanimously to agree, the action or decision of the Governor and either the Auditor General or the State Treasurer shall be binding and final.

(j) Issuing officials.—Issuing officials shall mean the Governor, the Auditor General and the State Treasurer.

#### Section 5. Sale of bonds.

(a) Public sale.—Whenever bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on the terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and character of the advertisement and the time of advertising shall be prescribed by the issuing officials. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(b) Private sale.—Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than 98% of the principal amount and accrued interest, as the Governor shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this act.

(c) Bond series.—When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth.

(d) Temporary bonds.—Until permanent bonds can be prepared, the issuing officials may in their discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

(e) Investment of funds.—Pending their application to the purposes authorized, moneys held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Pennsylvania Economic Revitalization Fund. Such earnings in excess of bond discounts allowed and expenses paid for the issuance of bonds and notes shall be transferred annually to the Pennsylvania Economic Revitalization Sinking Fund.

(f) Registration of bonds.—The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the issuing officials.

(g) Expenses of preparation for issue and sale of bonds and notes.—There is hereby appropriated to the State Treasurer from the proceeds of the bonds and notes issued as much money as may be necessary for all costs and

expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this act.

Section 6. Temporary financing authorization.

(a) Authority.—Pending the issuance of bonds of the Commonwealth as authorized, the issuing officials are hereby authorized, in accordance with the provisions of this act and on the credit of the Commonwealth, to make temporary borrowings not to exceed three years in anticipation to the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to enter into any purchase, loan or credit agreement, or agreements, or other agreement or agreements with any banks or trust companies or other lending institutions, investment banking firms or persons in the United States having power to enter into the same, which agreements may contain such provisions not inconsistent with the provisions of this act as may be authorized by the issuing officials.

(b) Evidence of temporary borrowings.—All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth, which shall be issued, from time to time, for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in such form and in such denominations and subject to terms and condition of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the issuing officials shall authorize and direct and in accordance with this act. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund outstanding notes or replacement notes, which replacement notes shall, upon issuance thereof, evidence such borrowing, and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the issuing officials may determine and direct.

(c) Other agreements.—When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the issuing officials are hereby authorized in the name and on behalf of the Commonwealth to issue, enter into or authorize and direct the State Treasurer to enter into agreements with any banks, trust companies, investment banking firms or other institutions or persons in the United States having the power to enter the same:

- (1) To purchase or underwrite an issue or series of issues of notes.
- (2) To credit, to enter into any purchase, loan or credit agreements, to draw moneys pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.
- (3) To appoint as issuing and paying agent or agents with respect to notes.
- (4) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the interest on and the principal of such notes.

Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by discounting the purchase price of the notes or by payment of a fixed fee or commission at the time of issuance thereof, and all other costs and expenses, including fees for agreements related to the notes, issuing and paying agent costs and costs and expenses of issuance may be paid from the proceeds of the notes.

(d) **Duty of State Treasurer.**—When the authorization and direction of the issuing officials provide for the issuance of replacement notes, the State Treasurer shall, at or prior to the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates (or procedures for establishing such rates from time to time), rates of discount, denominations and all other terms and conditions relating to the issuance and shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any moneys available for that purpose pursuant to any purchase, loan or credit agreements established with respect thereto, all subject to the authorization and direction of the issuing officials.

(e) **Funding and retirement.**—Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as hereinafter authorized. The refunding bonds must be issued and sold not later than a date three years after the date of issuance of the first notes evidencing such borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(f) **Proceeds.**—The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of section 7.

#### Section 7. Debt retirement.

(a) **Pennsylvania Economic Revitalization Sinking Fund.**—All bonds issued under the authority of this act shall be redeemed at maturity, together with all interest due, from time to time, on the bonds, and these principal and interest payments shall be paid from the Pennsylvania Economic Revitalization Sinking Fund, which is hereby created. For the specific purpose of redeeming the bonds at maturity and paying all interest thereon in accordance with the information received from the Governor, the General Assembly shall appropriate moneys to the Pennsylvania Economic Revitalization Sinking Fund for the payment of interest on the bonds and notes and the principal thereof at maturity. All moneys paid into the Pennsylvania Economic Revitalization Sinking Fund and all of the moneys not necessary to pay accruing interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the Commonwealth.

(b) **Purchase of bonds.**—In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and

coupons together with any other canceled bonds, notes and coupons shall be destroyed as promptly as possible after cancellation but not later than two years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the issuing officials. All canceled bonds, notes and coupons shall be so marked as to make the canceled bonds, notes and coupons nonnegotiable.

(c) Reporting requirements.—The State Treasurer shall determine and report to the Secretary of the Budget by November of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of the obligations, if any, for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every budget submitted to the General Assembly full information relating to the issuance of bonds and notes under the provisions of this act and the status of the Pennsylvania Economic Revitalization Sinking Fund of the Commonwealth for the payment of interest on the bonds and notes and the principal thereof at maturity.

(d) Debt service appropriations.—The General Assembly shall appropriate an amount equal to such sums as may be necessary to meet repayment obligations for principal and interest for deposit into the Pennsylvania Economic Revitalization Sinking Fund.

(e) Interest rate on loans.—Except as otherwise provided by law, the rate of interest on any loan made using funds appropriated from the Pennsylvania Economic Revitalization Fund shall not be less than the rate of interest paid by the Commonwealth on the general obligation bonds or notes issued pursuant to this act that, notwithstanding the provisions of any other law to the contrary, the interest rate charged shall not be set such that the aggregate of the interest, penalties and other payments to the Commonwealth on loans and other assistance made using funds appropriated from the Pennsylvania Economic Revitalization Fund will cause the general obligation bonds issued pursuant to this act to be deemed arbitrage bonds pursuant to section 103(c) of the Internal Revenue Code of 1954 and the regulations promulgated thereunder. In the case of loans initially funded from the proceeds of notes and subsequently funded from renewal bonds and notes, the interest rate to be charged on the loans shall be established in accordance with this subsection upon the sale of bonds or notes, as the case may be, for the loans. It is the intention of the General Assembly that the penalties assessed for breach of program conditions imposed upon borrowers shall not be treated as interest income for purposes of section 103(c) of the Internal Revenue Code of 1954.

Section 8. Disposition and use of proceeds.

(a) Deposit of sale proceeds.—The proceeds realized from the sale of bonds and notes under this act, other than refunding bonds and replacement notes, shall be paid to the State Treasurer and deposited into the Pennsylvania Economic Revitalization Fund and are specifically dedicated to the purposes enumerated in the act of February 24, 1984 (P.L.99, No.19), known as “An act authorizing the indebtedness, with the approval of the electors, of \$190,000,000 to promote economic redevelopment throughout Pennsylvania through job producing programs; grants and loans for indus-

trial and small business development; acquisition of equipment for vocational programs in secondary schools, community colleges and engineering degree-granting schools; agricultural development; and the acquisition, rehabilitation or development of facilities for community services and public recreation purposes," and as the General Assembly shall, by law, provide.

(b) Other funds.—All non-Federal funds which may become available for the purposes of this act shall be deposited in the Pennsylvania Economic Revitalization Fund. Such funds are hereby appropriated from the Pennsylvania Economic Revitalization Fund and, upon approval by the Governor, shall be allocated for the purposes of this act.

(c) Proceeds of refunding or replacement bonds or notes.—The proceeds of the sale of refunding bonds and replacement notes are hereby appropriated to the State Treasurer and shall be applied solely to the payment of principal of the accrued interest and premium, if any, and costs of redemption of the bonds and notes for which such obligations have been issued.

Section 9. Repeals.

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

Section 10. Effective date.

This act shall take effect immediately.

APPROVED—The 2nd day of July, A. D. 1984.

DICK THORNBURGH