

No. 1990-40

AN ACT

SB 857

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 defining "project"; including capital costs as project costs; further providing for small borrowing for capital purposes; providing for self insurance; and further providing for the determination of the useful life of projects.

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

Section 1. Section 102(c)(12) of the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, reenacted and amended April 28, 1978 (P.L.124, No.52) and amended April 30, 1986 (P.L.104, No.34), is amended to read:

Section 102. Definitions.—***

(c) As used in this act unless the context clearly otherwise requires:

(12) "Project" means (i) any item of construction, acquisition, extraordinary maintenance or repair which has been undertaken by a local government unit, (ii) any preliminary studies, surveying, planning, testing or design work for any such, (iii) any lands or rights in land to be acquired, (iv) any furnishings, machinery, apparatus or equipment normally classified as capital items, but such items must have a useful life of five years or more if financed separately and not as a part of a construction or acquisition project, (v) the local government unit's share of the cost of a project undertaken jointly with one or more other local government units or the Commonwealth or one of its agencies, (vi) **[funding or refunding of debt incurred for any or all of the foregoing purposes, (vii)]** county-wide revision of assessment of real property, **[or (viii)]** *(vii) funding of all or any portion of a reserve, or a contribution toward a combined reserve, pool or other arrangement, relating to self-insurance, which has been established by one or more local government units, pursuant to 42 Pa.C.S. § 8564 (relating to liability insurance and self-insurance), up to, but not exceeding, the amount provided in section 107 of this act, (viii) funding or refunding of debt incurred for any or all of the foregoing purposes, or (ix) any combination of any or all of the foregoing, as*

any or all of the above may be designated as a project by the governing body for the financing of which it desires to incur debt. The term shall also include any deficit to be funded by bonds or notes as provided herein, or the creation of a revolving fund for specific improvements. Where a local government unit has adopted a capital budget, the term project shall mean any unfunded portion of the capital budget selected by ordinance for current funding.

* * *

Section 2. Section 107 of the act is amended to read:

Section 107. Cost of a Project.—The cost of a project shall include the amount of all payments to contractors or for the acquisition of a project or for lands, easements, rights and other appurtenances deemed necessary for the project, fees of architects, engineers, appraisers, consultants, financial advisors, and attorneys incurred in connection with the project financing costs, costs of necessary printing and advertising, the costs of preliminary feasibility studies and tests, cost estimates, and interest on money borrowed to finance the project, if capitalized, to the date of completion of construction and, if deemed necessary, for one year thereafter, amounts to be placed in reserve funds, if any, a reasonable initial working capital for operating the project [and], a proper allowance for contingencies *and any amount which constitutes, under generally accepted accounting principles, a cost of, and which has been determined by an independent actuary or other expert to be required for the purposes of, a reserve or a contribution toward a combined reserve, pool or other arrangement, for losses or liabilities covered by a self-insurance arrangement established by one or more local government units.*

Section 3. The act is amended by adding a section to read:

Section 109. Guaranty Funds and Compulsory Associations.—(a) No self-insurance program funded pursuant to this act shall be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in this Commonwealth nor shall any such self-insurance program funded pursuant to this act, or its insureds or claimants against its insureds, receive any benefit from any such fund for claims arising under the coverage provided by such self-insurance program.

(b) When a local government unit or group of local government units obtains insurance from a self-insurance program funded pursuant to this act, such risks, wherever resident or located, shall not be covered by any insurance guaranty fund or similar mechanism in this Commonwealth.

Section 4. Section 409(a) of the act, amended May 22, 1981 (P.L.54, No.19), is amended to read:

Section 409. Small Borrowing for Capital Purposes.—(a) Any local government unit is hereby authorized to incur debt by resolution rather than by ordinance to be evidenced by notes to provide funds for a project as defined in this act without complying with the requirements of Article VIII provided: (i) that the aggregate amount of such debt outstanding at any one time shall not exceed the lesser of ~~[\$50,000]~~ \$100,000 or thirty percent of the borrowing base; (ii) that the principal of each such debt shall mature not later than five years from the date of issuance; (iii) that the incurrence of such debt shall not cause the debt limits of Article II to be exceeded; and (iv)

that the provisions of section 10 of Article IX of the Constitution shall have been observed and provided further that the provisions of section 808 shall apply to notes issued in violation of the foregoing requirements.

* * *

Section 5. Section 602(a) of the act, amended April 30, 1986 (P.L.104, No.34), is amended to read:

Section 602. Limitations on Stated Maturity Dates.—(a) No bonds or notes shall be issued with a stated maturity date exceeding the sooner to occur of:

(1) Forty years from the date of the series of any bonds or notes issued to evidence debt for the purpose of financing the cost of actually constructing, acquiring or improving a project or a separately financed portion of a project; or

(2) (i) The useful life of the project being financed as stated in the ordinance of the local government unit enacted in connection with the series of bonds or notes to be issued for such project, which statement in such ordinance shall be conclusive for all purposes. If projects have been combined for financing pursuant to section 401 and such projects have different useful lives, it shall be sufficient for this section if an aggregate principal amount of bonds or notes equal to the separate cost of each project having a shorter useful life shall have been stated to mature prior to the end of such useful life, and the balance prior to the end of the longest useful life. For the purpose of this section, the inclusion of furnishings, machinery, apparatus or equipment for a construction or acquisition project shall not be deemed to be the combining of projects but the useful life of such project shall be that of the building, structure or improvement constructed or acquired.

(ii) Where capital budgeting is practiced, and bonds are issued to fund the current portion of a capital budget involving projects of varying useful lives a uniform term of thirty years may be used.

(iii) Where the project being financed is a county-wide revision of assessment of real property, the useful life shall be a term of no more than ten years.

(iv) Where a project consists of the funding of all or a portion of a reserve, or a contribution toward a combined reserve, pool or other arrangement, relating to self-insurance, the useful life shall be the term specified in the ordinance of the local government unit, not to exceed twenty years, or if none is specified, then the useful life shall be deemed to be twenty years.

* * *

Section 6. This act shall take effect immediately.

APPROVED—The 4th day of May, A. D. 1990.

ROBERT P. CASEY