

No. 214

AN ACT

SB 1656

Amending the act of July 12, 1972 (Act No. 185), entitled "An act providing debt limits for local government units, including municipalities and school districts; providing the methods of incurring and evidencing debt; defining the powers and duties of the Department of Community Affairs 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 duties upon the officers in charge of the recording of deeds, 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 local government unit, further providing for notice of ordinances, for borrowing by tax anticipation notes and for manner of sale of bonds or notes and for time for appeal.

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

Section 1. Clause (10) of subsection (c) of section 102, section 103, clause (3) of subsection (a) of section 411, sections 501, 502, 504, 505, 507 and 508, subsection (a) of section 701 and section 901, act of July 12, 1972 (Act No. 185), known as the "Local Government Unit Debt Act," are amended to read:

Section 102. Definitions.—* * *

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

(10) "Local government unit" means a county, county institution district, city, borough, incorporated town, township, school district or any similar, general or limited purpose unit of local government or any unit created by joint action of two or more local government units which is now or shall hereafter be authorized to be created by the General Assembly; but the term does not include an authority as herein defined, or any political subdivision now, or former local government unit hereafter, operating under a home rule charter. *The term "local government unit" includes school districts of the first class presently operating under a home rule charter or home rule charter supplement and the provisions of this act shall govern over inconsistent charter provisions on the same subject.*

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Section 103. Effectiveness and Required Notice of Ordinances.—Notwithstanding any other law to the contrary, an ordinance required to be adopted by this act shall be advertised not less than [seven] *three* nor more than thirty days prior to its enactment. The advertisement shall appear once in a newspaper of general circulation, published or

circulating in the area of the local government unit, shall set forth a summary of the contents of the ordinance and shall state that a copy of the full proposed text thereof may be examined by any citizen in the office of the secretary of the local government unit at the address and during the reasonable hours stated in such advertisement. Not later than the seventh day after the final enactment of such ordinance, a notice of such enactment shall be advertised once in a newspaper of general circulation published or circulating in the local government unit. This notice shall state:

(1) Briefly, the substance of any amendments made during final passage, and the price bid for bonds or notes, the range of interest rates named in the successful bid, and the average annual debt service; and

(2) That a copy of such notice has been conspicuously posted and will remain so posted for the next **[twenty-three]** *seven* days in a designated position, readily viewable by the public, at the public meeting place of the governing body of such local government unit.

The ordinance shall be valid and effective for all purposes on the later of such **[twenty-third]** *seventh* day or the **[thirtieth]** *tenth* day after the final enactment of such ordinance. The second advertisement shall be conclusive, so far as concerns the effectiveness of the ordinance or the validity of any debt incurred, as to the existence of all matters recited therein unless action questioning such validity or effectiveness shall have been filed in timely manner as provided in this act, but such conclusiveness shall not affect the liability of any person for failure to post and keep posted the notice or for failure to permit inspection. No other or different publication shall be required notwithstanding the provisions of any other law.

Section 411. Submission to Department.—(a) Before delivering any bonds or notes the local government unit shall apply for the approval of the department. The application, in such form as the department shall prescribe shall be accompanied by a transcript of the proceedings consisting of certified copies of any of the following which are applicable:

* * *

(3) The ordinance or ordinances *or resolution* authorizing the bonds or notes and prescribing the manner of sale with proofs of proper publication;

* * *

Section 501. Power to Issue Tax Anticipation Notes.—A local government unit shall have power and authority, by **[ordinance]** *resolution* of its governing body, to borrow money from time to time in any fiscal year in anticipation of the receipt of current taxes and current revenues, to evidence the indebtedness by notes, denominated tax anticipation notes, and to authorize, issue and sell such tax anticipation notes in the manner, and subject to the limitations provided therefor in this article. Limitations imposed by this act on the incurring of nonelectoral debt shall not apply to the indebtedness evidenced by tax anticipation notes.

Section 502. Limitation on Amount of Tax Anticipation Notes.—No local government unit shall authorize or issue tax anticipation notes in any one fiscal year in an amount exceeding eighty-five per cent of the sum of the taxes levied for the current fiscal year and the current revenues for such year, not yet received, which are certified, pursuant to section 506, as remaining to be collected or received in such fiscal year during the period between the first day of the month next following the date of the delivery of the tax anticipation notes to the first purchasers thereof and the stated maturity date thereof. The certificate shall be as of a date not more than thirty days prior to the date of the vote on the **[ordinance] resolution** authorizing the issue and sale of the tax anticipation notes.

Section 504. Other Terms of Tax Anticipation Notes.—Tax anticipation notes shall be issued in such denominations, shall be subject to such rights of prior redemption, shall have such privileges of interchange and registration, shall be dated, shall be stated to mature (subject to the provisions of section 503) on such dates and in such amounts, shall be in registered or bearer form with or without coupons, shall be payable in such coin or currency as at the place and at the time of payment shall be legal tender for the payment of public and private debts, and shall be payable at such place or places, one of which shall be within the Commonwealth of Pennsylvania as the governing body of the issuing local government unit may determine by **[ordinance] resolution**.

Section 505. Security for Tax Anticipation Notes; Sinking Fund.—All tax anticipation notes shall be secured by the pledge of, and a first lien and charge on, the taxes and revenues of the local government unit to be received between the first day of the month next following the date of the delivery of such tax anticipation notes to the first purchasers thereof and the last stated maturity date of such notes. Such pledge, lien and charge shall be fully perfected as against the local government unit, all creditors thereof, and all third parties in accordance with the terms of such **[ordinance] resolution** from and after the filing thereof in the office for the recording of deeds in and for the county in which such local government unit is located notwithstanding the provisions of any other law. Unless otherwise provided in the tax anticipation notes, eighty-five per cent or such lesser percentage of anticipated revenues as was borrowed of all moneys collected after such first day of the month shall be paid into a separate sinking fund for the tax anticipation notes to be held by a bank or bank and trust company authorized to do business in the Commonwealth of Pennsylvania as sinking fund depository, until the amount held in the sinking fund including any interest to be earned thereon shall equal the principal of and the interest remaining to be paid upon the outstanding tax anticipation notes. The terms of the tax anticipation notes may provide for the payment of specific sums into the separate sinking fund for the tax anticipation notes on specified dates in

amounts sufficient to provide moneys for the payment of the principal of and the interest on such tax anticipation notes as the same shall fall due; but no such specified payment shall be in an amount larger than eighty-five percent of the taxes estimated to be collected in such fiscal year on and after the date for such payment. Such specified amounts shall on such dates be paid into the separate sinking fund by the treasurer of the local government unit. In default of such payment, all tax moneys and revenue thereafter received by the local government unit shall be paid into such separate sinking fund, until such sum shall have been paid in full. Such obligation shall be specifically enforceable by the sinking fund depository for the benefit of the holders of the tax anticipation notes.

Section 507. Sale of Tax Anticipation Notes.—Tax anticipation notes may be sold at public or private sale as the governing body of the local government unit may determine. Any public sale shall be advertised and conducted in the manner and subject to the conditions provided for a public sale of bonds in Article VII of this act, except as modified by this Article V. The governing body of the local government unit shall award the notes by **[ordinance] resolution** to specified purchasers at a specified price, not less than the principal amount thereof.

Section 508. Condition Precedent to Validity of Tax Anticipation Notes.—No tax anticipation note shall be valid or obligatory in the hands of an original purchaser thereof until certified copies of the authorizing and awarding **[ordinances, due proofs of publication] resolution**, the certificate as to the taxes and revenues remaining to be collected, and a true copy of the accepted proposal for the purchase of the tax anticipation notes shall have been filed for record in the office for the recording of deeds in and for the county in which the local government unit is located and with the department. No approval of the department shall be required, *nor shall the provisions of Article VIII apply*, in the case of tax anticipation notes.

Section 701. Manner of Sale of Bonds or Notes.—(a) Except as otherwise specifically provided in this act and subject to the following subsection, bonds or notes may be sold at public or private sale and at such price all as the governing body of the issuing local government unit shall determine **[by ordinance effective prior to the sale]**. Bonds or notes may be conditionally sold before **[or after the adoption of the bond ordinance fixing]** the final details of the series *are fixed*.

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Section 901. Appeals by Interested Parties and Taxpayers.—(a) Where proceedings for the incurring of debt and sale of bonds or notes or the exclusion of debt as self-liquidating or subsidized have been taken by a local government unit and the department shall have certified or shall have been deemed to have certified its approval or disapproval of the series or the exclusion of any debt from net nonelectoral and net lease rental and the fact of final adoption of the ordinance approving the sale

or the exclusion shall have been advertised one time in a newspaper of general circulation in the area of the local government unit, such local government unit or any other interested party, or any taxpayer of the local government unit may appeal within [~~thirty~~] *fifteen* days from the earlier of:

(1) The date of advertisement of the fact of the final passage of the ordinance approving the sale of the bonds; or

(2) The date of the department's certificate of approval, the date it is deemed to have been approved, or the date of its disapproval. The appeal shall be by petition to the Commonwealth Court. The petition shall allege the error or errors in the proceedings in the manner required of bills in equity, and the burden of persuading the trier of fact as to all matters of fact shall be upon the appellant.

(b) Jurisdiction is hereby conferred upon the Commonwealth Court to hear and determine such appeals, and all other appeals and actions provided for in this act.

Section 2. This act shall take effect immediately and shall be retroactive to July 12, 1972.

APPROVED—The 11th day of October, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 214.



Secretary of the Commonwealth.