

No. 1984-83

AN ACT

SB 1139

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," providing additional powers for the investment of moneys; providing for the issuance and refinancing of tax anticipation notes; and further providing for the temporary financing and refinancing of capital projects prior to the sale of bonds.

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

Section 1. The title of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended to read:

AN ACT

Relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, *authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authoriz-*

ing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth.

Section 2. The act is amended by adding articles to read:

ARTICLE XVI-A TAX ANTICIPATION NOTES

Section 1601-A. Authorization to Borrow.—Whenever the General Assembly has provided revenues for the general purposes of any fiscal period and the Governor, the Auditor General and the State Treasurer determine such revenues will not be sufficient for the current and other expenses payable from the General Fund or such determination is made with regard to the revenues of the Motor License Fund, as a result of which the collectible revenues may not be sufficient to defray the current and other expenses payable from the General Fund or those of the Motor License Fund, the Governor, the Auditor General and the State Treasurer, on behalf of the Commonwealth of Pennsylvania, are hereby authorized and directed during any fiscal period to authorize and direct the borrowing, from time to time, on the credit of the current revenues levied, assessed, collectible and accruing during any current period or on the credit of such revenues of the Motor License Fund, or on the credit of the sum of such revenues of both funds, such sum or sums of money not exceeding, in the aggregate, one-fifth of the contemplated receipts from the revenues which have been provided for either of said funds or from the sum of the revenues of both funds, depending upon the fund or funds for which the loans are being made, based upon estimates submitted to the Governor through the Budget Secretary by the Department of Revenue for any current period by the General Assembly, for the general purposes or the purposes of the General Fund or Motor License Fund of any fiscal period: Provided, That the money borrowed at any one time, when added to the outstanding amount of any other such loan made during such period, shall not exceed one-fifth of the contemplated revenues for such fund or the contemplated revenues of the sum of both funds for such fiscal period.

Section 1602-A. Notes to Evidence Borrowing.—(a) (1) Any borrowing authorized hereunder shall be evidenced by notes of the Commonwealth of Pennsylvania. All of said notes shall mature not later than the last day of the current fiscal period.

(2) The Governor, the Auditor General and the State Treasurer shall authorize and direct the issuance of notes authorized hereunder, which authorization and direction may provide for the subsequent issuance of such notes (hereinafter designated as “replacement notes”) to refund such notes or replacement notes and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as they may determine and direct.

(3) Such notes shall be offered for sale by the Governor, the Auditor General and the State Treasurer to the highest and best bidder, after due public advertisement and open competitive bidding, on such terms and conditions as the Governor, the Auditor General and the State Treasurer shall direct provided that:

(i) When the authorization and direction of the Governor, the Auditor General and the State Treasurer provide for the issuance of replacement notes, the Governor, the Auditor General and the State Treasurer 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 into the same (A) to purchase or underwrite an issue or series of issues of notes, (B) 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, (C) to appoint an issuing and paying agent or agents with respect to notes, and (D) to do such other acts as may be necessary or appropriate to provide for the payment, when due, of the interest on and principal of such notes; such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes, by discount in 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; or

(ii) When in a determination by the Governor, the Auditor General and the State Treasurer a more favorable interest rate on the competitive sale of the notes may be obtained by providing a line or letter of credit or some other suitable liquidity support for the notes, the Governor, the Auditor General and the State Treasurer are hereby authorized to enter into agreements with any banks, trust companies or other institutions or persons in the United States having the power to enter the same to credit, to enter into any purchase, loan or credit agreement, to draw moneys pursuant to such agreements and to issue notes as evidence of borrowings made from such agreements.

(4) When the authorization and direction of the Governor, the Auditor General and the State Treasurer 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 Governor, the Auditor General and the State Treasurer.

(b) *All notes issued under the authority of this article shall bear either the signatures of the Governor, the Auditor General and the State Treasurer, or the facsimile signatures of the Governor, the Auditor General and the State Treasurer, in which latter event such notes shall be countersigned by an officer of the duly designated loan and transfer agent or the issuing and paying agent of the Commonwealth. All such notes shall bear a facsimile of the Great Seal of the Commonwealth.*

(c) *All notes issued under the authority of this article shall have the qualities and incidents of negotiable instruments under the Uniform Commercial Code.*

(d) *The current revenues of the General Fund or the current revenues of the Motor License Fund, or the total current revenues of both funds respectively proportioned, shall be pledged for the payment of the principal and interest of such notes during such fiscal period and shall be payable in lawful money of the United States. All notes issued under the provisions of this article 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."*

Section 1603-A. Payment of Proceeds.—(a) The proceeds derived from the issuance of notes issued for a purpose other than the repayment of a prior issue or issues of notes or negotiation of loans under the provisions of this article shall be paid respectively and proportionally into the General Fund of the State Treasury or into the Motor License Fund, or into both funds, and shall be used for the payment of appropriations made from such funds to defray the current and other expenses of the State government for the current fiscal period and, if the proceeds or part of the proceeds so derived are paid into the Motor License Fund, such fund shall pay its proportionate share of the cost and interest charges involved in said loans.

(b) *The proceeds of replacement notes may, at the direction of the State Treasurer, be deposited in trust in a special fund held by a duly authorized issuing and paying agent and, in such case, shall be applied thereby to the repayment of principal and interest, if any, due on the issue or issues of notes being refunded and thereafter to the payment of costs and expenses of issuance of said notes.*

(c) *Any issue of notes or replacement notes may include as a part of the principal amount thereof an amount equal to the interest to become due thereon and an amount necessary to pay the costs and expenses of issuance thereof (including the costs associated with any agreements related thereto). Any issue of replacement notes may be in a principal amount sufficient to repay the principal and interest, if any, due on the issue or issues of notes being refunded.*

Section 1604-A. Security for Notes.—Any borrowing under the provisions of this article shall be secured by the current revenues levied and assessed for revenue purposes of every kind or character accruing to the General Fund or the current revenues of the Motor License Fund, or the sum of the moneys in the two funds, respectively proportioned, during the current fiscal period and, except in the case of repayment of outstanding

notes from the proceeds of replacement notes, shall be paid out of such revenues and so much of such revenues as shall be necessary for the payment of the principal and interest of such loans are hereby specifically and respectively appropriated. The Department of Revenue shall allocate such revenues to said payments.

Section 1605-A. Severability.—The provisions of this article are severable and, if any of its provisions are held unconstitutional, the decision so holding shall not be construed to impair any other provision of this article. It is hereby declared that the legislative intent would have been to adopt this article had such unconstitutional provision not been included herein.

ARTICLE XVI-B BORROWING FOR CAPITAL FACILITIES

Section 1601-B. Short Title.—This article shall be known and may be cited as the “Capital Facilities Debt Enabling Act.”

Section 1602-B. Definitions.—As used in this article—

“Acquisition Cost” shall include the cost of acquiring any buildings, structures, facilities, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable in connection with a capital project, whether the acquisition be by purchase or by condemnation, including the amount of any award or final judgment in any proceeding to acquire by condemnation such lands, rights of way, rights of slope, property rights, franchises, easements and other interests as may be deemed necessary or convenient in connection with the acquisition or construction of any project, and costs of options and partial payments thereon and thereunder.

“Capital Project” shall mean and include (i) any building, structure, facility or physical public betterment or improvement; (ii) any land or rights in land; (iii) any furnishings, machinery, apparatus or equipment for any public betterment or improvement; or (iv) any undertaking to construct, repair, renovate, improve, equip, furnish or acquire any of the foregoing, provided that the project is designated in a capital budget as a capital project, has an estimated useful life in excess of five years and an estimated financial cost in excess of one hundred thousand dollars (\$100,000): Provided, That the one hundred thousand dollar (\$100,000) limitation shall not apply to original equipment and furnishings for previously authorized public improvement projects and shall include projects to be financed by the incurring of debt, such projects being separated into the following categories:

(a) “Community College Projects” shall mean and include projects for a community college of a type which the State Public School Building Authority is authorized to undertake under the provisions of the act of July 5, 1947 (P.L.1217, No.498), known as the “State Public School Building Authority Act,” to the extent that obligations issued to finance these projects are debt within the meaning of this article.

(b) “Highway Projects” shall mean and include projects of a type which the Department of Transportation is authorized to construct, improve, equip, maintain, acquire or operate.

(c) *“Public Improvement Projects” shall mean and include projects of a type which the General State Authority is authorized to construct, improve, equip, furnish, maintain, acquire or operate under the provisions of the act of March 31, 1949 (P.L.372, No.34), known as “The General State Authority Act of one thousand nine hundred forty-nine,” and projects which the Department of General Services is authorized to construct, improve, equip, furnish, maintain, acquire or operate.*

(d) *“Transportation Assistance Projects” shall mean and include projects of a type which the Department of Transportation is authorized to construct, improve, equip, furnish, maintain, acquire or operate under the provisions of the act of January 22, 1968 (P.L.42, No.8), known as the “Pennsylvania Urban Mass Transportation Law,” and also capital projects which the Department of Transportation is authorized to construct, improve, equip or furnish under the provisions of the act of February 11, 1976 (P.L.14, No.10), known as the “Pennsylvania Rural and Intercity Common Carrier Surface Transportation Assistance Act,” including the acquisition of property therein authorized.*

(e) *“Other Capital Projects” shall mean and include only that undertaking to equip and furnish those public improvement projects which are specifically enumerated under the heading of “Other Capital Projects” in subsection (d) of section 3 of the act of July 20, 1968 (P.L.560, No.218), known as the “Capital Budget Act for the 1968-1969 Fiscal Year.” Upon final completion of said undertaking as authorized by subsection (d) of section 3 of such act, no equipment or furnishing undertaking or any other undertaking or project shall be listed in any capital budget act for the fiscal year 1969-1970 or any fiscal year thereafter under the heading of “Other Capital Projects” but the same shall be listed in future capital budget acts as a “Capital Project” as defined by this article and under one of the categories enumerated in such definition of this article, provided that the undertaking or project comes within the meaning of “Capital Project” as defined in this article.*

(f) *“Flood Control Projects” shall mean and include projects of the type which the Water and Power Resources Board is authorized to construct, improve, equip, maintain, acquire or operate under the provisions of the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.46), referred to as the Flood Control Law.*

(g) *“PIDA Projects” shall mean and include projects of the type which the Pennsylvania Industrial Development Authority is authorized to finance under the provisions of the act of May 17, 1956 (1955 P.L.1609, No.537), known as the “Pennsylvania Industrial Development Authority Act.”*

(h) *“Redevelopment Assistance Projects” shall mean and include projects of the type which the Department of Community Affairs is authorized to finance by capital grants under the provisions of the act of May 20, 1949 (P.L.1633, No.493), known as the “Housing and Redevelopment Assistance Law,” and Reorganization Plan No.2 of 1966.*

(i) *“Site Development Projects” shall mean and include projects of the type which the Department of Commerce is authorized to finance by site*

development grants under the provisions of the act of May 6, 1968 (P.L.117, No.61), known as the "Site Development Act."

"Construction Cost" shall include obligations incurred (i) for labor and to contractors, builders and materialmen in connection with the construction, fabrication or assembly of any capital project; (ii) for machinery and equipment required for such construction; (iii) for the restoration of property damaged or destroyed in connection with such construction; and (iv) for the payment of any damages incurred by others incident to or consequent upon such construction, which the Commonwealth or its agency or authority shall be under legal obligations to pay or shall desire to pay in settlement of a disputed claim of liability.

"Debt" shall mean the issued and outstanding obligations of the Commonwealth of Pennsylvania incurred without a vote of the electorate or incurred with such vote under a law making such debt subject to the provisions of section 7(a)(4) of Article VIII of the Constitution of Pennsylvania and shall include obligations of its agencies and authorities to the extent that such obligations are to be repaid from lease rentals or other charges payable directly or indirectly from revenues of the Commonwealth. An agency or authority is not an agency or authority of the Commonwealth if it is organized by action of a county, city, borough, town, township or school district. Debt shall not include (i) that portion of debt which is to be repaid from charges made to the public for the use of the capital projects financed, as such portion of debt may be determined by the Auditor General; (ii) obligations to be repaid from lease rentals or other charges payable by a school district or other local taxing authority; or (iii) obligations to be repaid by agencies or authorities created for the joint benefit of the Commonwealth and one or more other state governments.

"Financial Cost" shall mean and include acquisition cost and construction cost, where applicable, as well as an allocated portion of (i) the fees, expenses and costs of issuing the obligations, the proceeds whereof are used to finance the project, the fees, expenses and costs of issuing and selling any notes or replacement notes issued hereunder; (ii) establishing and maintaining any purchase, loan or credit agreements in connection with an issue or series of issues of notes, and the fees and expenses of any fiscal or loan and transfer agent and bond counsel incurred in connection with the issue of the obligations; (iii) premiums on insurance (if any) in connection with any project during construction, taxes and other municipal or governmental charges, if any, lawfully levied or assessed during construction, fees and expenses of architects, engineers, and other professionals for making preliminary studies, reports, estimates of costs, preparing plans and specifications and inspecting and reviewing the progress of construction, costs of obtaining abstracts of title, title insurance or title opinions; (iv) costs and expenses of preliminary investigations, preplanning, surveys and reports to determine the proper scope, feasibility and probable costs of capital projects to be included in future capital budgets; and (v) costs of administration, including the salaries and expenses of administrators, reviewing architects and engineers, construction inspectors, accountants and legal counsel of the Commonwealth,

its agencies or authorities incurred for the proper planning and supervision of the capital projects program.

“Fund” shall mean, when used without other designation, the Motor License Fund, the General Fund, or other special funds of the Commonwealth, but does not include any fund, or account therein, created by this article.

“Funding Bonds” shall mean bonds used to provide funds for and towards the payment of outstanding notes or to refund other outstanding bonds prior to or at or after the stated maturity date of the bonds being refunded or of the notes being funded.

“Issuing Officials” shall mean the Governor, the Auditor General and the State Treasurer.

“Net Debt” shall mean (i) the aggregate principal amount of all debt plus (ii) the amount of any past due and unpaid interest thereon minus (iii) all funds held exclusively for the payment of such principal and past due interest. Neither accrued but not yet past due interest nor funds held for the payment of the interest next falling due (up to the amount of such interest) shall be included in such computations.

“Notes” shall mean and include temporary obligations issued by the Commonwealth pursuant to this act in anticipation of bonds and shall include replacement notes.

“Obligations” shall mean the notes or bonds of the Commonwealth, its agencies or authorities issued pursuant to any debt authorizing act.

“Replacement Notes” shall mean and include notes, the net proceeds of which are used to pay principal, accrued interest and premium, if any, of previously issued notes or replacement notes, and which evidence the same temporary borrowing of the Commonwealth as the notes or replacement notes replaced.

“Tax Revenues” shall mean all revenues from Commonwealth imposed taxes, regardless of the fund to which they are deposited, including revenues from motor vehicle licenses, which are hereby declared to be taxes, but shall not include revenues from any other licenses nor from interest, fees, fines or penalties.

Section 1603-B. Procedures for Capital Budget Bill and Debt Authorizing Legislation.—(a) A capital budget prepared in accordance with this article shall be submitted for each fiscal year by the Governor to the General Assembly and shall thereafter be considered in the form of a bill as provided in Article III of the Constitution of Pennsylvania.

(b) The capital budget bill shall specifically itemize, by brief identifying description and estimated financial cost, the capital projects to be financed from the proceeds of obligations of the Commonwealth except where such itemization is contained in or approved by prior legislation referred to in the capital budget bill or except where such itemization is included in one or more supplemental capital budget bills. Such projects shall be listed in separate categories, as well as according to the fund to be charged with the repayment of the obligations to be incurred. The capital budget bill shall state the maximum amount of such obligations which may be incurred in the ensuing

fiscal year to provide funds for and towards the financial costs of each category of capital projects, which shall be by the issue of general obligations of the Commonwealth.

(c) Each year, the Governor shall submit a capital budget bill for the ensuing fiscal year.

(d) At the time the Governor submits the capital budget or a supplement thereto as aforesaid, he shall, to the extent the debt to be incurred is not within the limits of legislation then in force authorizing the incurring of debt, submit additional bills for each category of capital projects, authorizing the incurring of debt to provide funds for and towards the payment of the financial costs of capital projects in such category which have been specifically itemized in a capital budget for the same or any prior year.

(e) Each debt authorizing bill shall state the category of capital projects to be financed by the debt so authorized but need not enumerate the capital projects to be financed, shall authorize the incurring of debt in not less than the amount of the financial cost of all capital projects in such category not covered by a previous debt authorization, including any overall allowance for contingencies, shall state the estimated useful lives of the capital projects to be financed in such detail as may be requisite where capital projects of varying useful lives are to be combined for financing purposes and shall state the maximum term of the debt to be incurred.

Section 1604-B. Certificates of the Auditor General.—(a) On or before each March 1 and September 1, the Auditor General shall certify to the Governor and the General Assembly the average annual tax revenues deposited in all funds in the five fiscal years ended next preceding the date of such certificate, determined by adding the total of such revenues so deposited and dividing the sum by five. At the time of each such certification, the Auditor General shall also certify as separate items (i) the amount of outstanding net debt as of the end of the preceding fiscal year; (ii) the amount of such net debt as of the date of such certificate; (iii) the difference between the limitation upon all net debt outstanding as provided in section 7(a)(4) of Article VIII of the Constitution of Pennsylvania and item (ii) above; (iv) the amount of such debt scheduled to be repaid during the remainder of the fiscal year in which such certificate is issued; (v) the amount of debt authorized by law to be issued but not yet incurred; and (vi) the amount of outstanding obligations excluded from outstanding debt as self-sustaining pursuant to section 7(c)(1), (2) and (3) of Article VIII of the Constitution of Pennsylvania.

(b) From time to time, as required in connection with the sale of or settlement for obligations of the Commonwealth, the Auditor General shall issue certificates containing items (ii) and (iii) of subsection (a) as of the dates determined by the Governor to be relevant to such sales or settlements.

(c) In making such certificates, the Auditor General shall be entitled to rely, as to any of items (i) through (v) of subsection (a), upon any certificate furnished by the State Treasurer in respect of outstanding Commonwealth general obligation bonds and upon any certificate furnished by the Department of Revenue or by the appropriate bank or trust company acting as

fiscal agent or trustee, in respect of the outstanding obligations of any authority.

Section 1605-B. Constitutional Limitations; Authorizations; Issuing Officials.—*Within the limitation set forth in section 7(a)(4) of Article VIII of the Constitution of Pennsylvania, the issuing officials are hereby authorized and directed to borrow, from time to time, on the credit of the Commonwealth and subject to the conditions and limitations of this act, such moneys as may be necessary to carry out the purposes of debt authorizing acts passed in accordance with the provisions of this article.*

Section 1606-B. Temporary Financing Authorizing.—(a) *Pending the issuance of bonds of the Commonwealth as hereinafter authorized, the issuing officials are hereby authorized, in accordance with the provisions hereof and on the credit of the Commonwealth, to make temporary borrowings not to exceed three years in anticipation of the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable to carry out the purposes of any debt authorizing acts 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 article, as may be authorized by the issuing officials.*

(b) *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 such terms and conditions of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interests, as the issuing officials shall authorize and direct and in accordance with the applicable debt authorizing 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 such issuing officials may determine and direct.*

(c) *When the authorization and direction of the Governor, the Auditor General and the State Treasurer provide for the issuance of replacement notes, the Governor, the Auditor General and the State Treasurer 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 into 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 an issuing and paying agent or agents with respect to notes, and (4) to do such other acts as may be necessary or appropriate to provide for the payment, when due, of the interest on and principal of such notes; such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes, by discount in 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; or

(d) When the authorization and direction of the Governor, the Auditor General and the State Treasurer 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 Governor, the Auditor General and the State Treasurer.

(e) Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as hereinafter authorized: Provided, That such funding 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) The proceeds of all such temporary borrowings except those evidenced by replacement notes shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of section 1610-B. The proceeds of temporary borrowings evidenced by replacement notes shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of subsection (d).

Section 1607-B. Bonds; Issue of Bonds and Notes; Maturity; Interest, Etc.—*(a) As evidence of indebtedness as authorized, general obligation bonds of the Commonwealth, which may be for one or more purposes, shall be issued in accordance with the provisions hereof at any time, or from time to time, to fund and retire notes issued pursuant to section 1606-B (hereinafter referred to as "funding bonds") or to provide moneys necessary to carry out the purposes of the debt authorizing acts, or both.*

(b) 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. Each series of bonds shall bear such rate or rates of interest as may be determined by the issuing officials. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability, as the issuing officials may determine. In case interest coupons are attached, they shall, unless the debt authorizing act provides otherwise, contain the facsimile signature of the State Treasurer.

(c) Except as set forth in the foregoing provisions of this section, the terms and conditions of issue, redemption and maturity and time of payment of interest, shall be as the issuing officials shall specify: Provided, That the bonds of any series shall mature within a period not to exceed the estimated useful lives of the capital facilities projects as stated in the debt authorizing act but not later than thirty years from the date of issuance. The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt, provided that 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 such 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 computed in accordance with either a level annual debt service plan, as nearly as may be, or upon the equal annual maturities plan. Where debt is incurred in one issue of bonds to provide funds for and towards the financial cost of capital projects having estimated useful lives of varying length, the aggregate of the financial costs shall be considered as the debt to be incurred for the purpose of fixing the regular and substantial amounts of principal to be retired, and the term of the debt shall be to the end of the longest estimated useful life for the purpose of determining the first date for the retirement of principal, provided that, at the end of the estimated useful life of each project, the aggregate principal retirements required to be made at or before that date shall exceed the aggregate financial cost of all capital projects having the same or shorter-estimated useful lives or, in each case, a proportionate amount if bonds are issued for less than the full financial cost of all projects being financed in the same category. The issuing officials are hereby authorized to carry out the provisions of this act relating to the issuance of bonds and shall determine all matters in connection therewith subject to the provisions hereof.

(d) All bonds issued under the authority of this act, unless the debt authorizing act provides another method of signature, shall bear the facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth of Pennsylvania and shall be countersigned by an officer of a duly authorized loan and transfer agent of the Commonwealth. The action taken by the issuing officials authorizing the issuance of bonds or notes shall set forth the title and citation of the debt authorizing acts, and all notes and bonds issued under the authority of this article shall either contain a similar recital or refer to the recital of titles and citations set forth in the action authorizing such issuance and shall further state that said bonds or notes, as

the case may be, are issued in accordance with the provisions of this article. In any action or proceeding involving the validity or enforceability of such bonds or notes, such recital shall be conclusive as to their authorization.

Section 1608-B. Direct Obligations; Exemption from Taxation; Means of Payment.—*All notes and bonds issued in accordance with the provisions of this article shall be direct obligations of the Commonwealth of Pennsylvania and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon as the same shall become due and the payment of the principal thereof at maturity. All notes and bonds issued under the provisions of this article 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." The principal of and interest on such notes and bonds shall be payable in lawful money of the United States of America.*

Section 1609-B. Sale of Bonds.—(a) *Whenever bonds are issued in accordance with this article, they shall be offered for sale at not less than ninety-eight per centum of the principal amount thereof and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on such terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and times of advertising shall be prescribed by the issuing officials.*

(b) *Any portion of any bond issue so offered and not sold or subscribed for may be disposed of by private sale by the issuing officials in such manner and at such prices, not less than ninety-eight per centum of the principal amount thereof 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 article.*

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

Section 1610-B. Disposition and Use of Proceeds.—(a) *The proceeds of all temporary borrowings made pursuant to the provisions of section 1606-B, other than the proceeds of replacement notes, and the proceeds from the sale of bonds, other than funding bonds, issued pursuant to the provisions of section 1607-B, shall be paid to the State Treasurer and be held by him in a separate fund and shall be deposited in such depositories as may be selected by him to the credit of such fund, which fund shall be known as the "Capital Facilities Fund," which shall have such separate accounts therein as may be deemed desirable by the issuing officials, but not less than one separate account for each category of capital projects. The proceeds of replacement notes shall be deposited and applied as provided in subsection (d) of section 1606-B.*

(b) *The moneys in the Capital Facilities Fund are hereby specifically dedicated to meeting the financial costs of capital projects. The moneys shall be paid by the State Treasurer to those departments, agencies or authorities authorized to expend same as required by them to pay financial costs at such*

time as the department, agency or authority certifies the same to be legally due and payable.

(c) Pending their application to the purposes authorized, moneys held or deposited by the State Treasurer may be invested and 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 account in the Capital Facilities Fund to which such funds were originally deposited.

Section 1611-B. Capital Debt Fund; Investments; Redemption of Bonds.—*(a) All bonds issued under the authority of this article shall be paid at maturity and all interest due, from time to time, after July 1, 1968, on such bonds and on all notes issued under the provisions of this article shall be paid by the Board of Finance and Revenue of the Commonwealth from the Capital Debt Fund. The General Assembly shall appropriate annually the moneys necessary to pay the aforesaid interest on said bonds and notes and the principal of said bonds and notes at maturity for which other provision is not made. All moneys so appropriated shall be paid into the Capital Debt Fund by the State Treasurer. All of such moneys so received prior to the date for disbursement thereof shall be invested by the Board of Finance and Revenue pending disbursement in such securities as are provided by law for the investment of surplus moneys of the Commonwealth.*

(b) The investment of such moneys and the accumulations thereon in the Capital Debt Fund shall be devoted to and be used exclusively for the payment of the interest accruing on such bonds and notes and for the redemption of such bonds and notes at maturity or upon the redemption date, if called for prior redemption. The Board of Finance and Revenue is authorized at any time to use any of such funds for the purchase and retirement of all or any part of the bonds issued under the provisions of this article: Provided, That no purchase shall be made which will reduce the moneys in the Capital Debt Fund below the amount necessary to pay all principal and interest still to become due in the fiscal year of such purchase. In the event that all or any part of said bonds shall be purchased by the Commonwealth, they shall be cancelled and returned to the State Treasurer as cancelled and paid bonds and, thereafter, all payments of interest thereon shall cease and the cancelled bonds and coupons shall be destroyed, within two years after cancellation, in the presence of the issuing officials or their duly authorized representatives. A certificate evidencing the destruction, satisfactory to the duly authorized loan and transfer agent of the Commonwealth, shall be furnished to it. All cancelled bonds and coupons shall be so mutilated as to make the cancelled bonds and coupons nonnegotiable.

Section 1612-B. Funding Bonds.—*The issuing officials subject to the provisions of any bond resolution or trust indenture are hereby authorized to issue funding bonds for the purpose of refunding any obligations then outstanding, to provide funds to redeem and retire such outstanding obligations with accrued interest and any premium payable thereon, at maturity or any call date. The issuance of such funding 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 foregoing provisions of this article insofar as the same may be applicable. Funding bonds may be issued to refund bonds previously issued for refunding purposes. The proceeds of the sale of any funding bonds shall be paid to the State Treasurer and applied to the payment of the principal of and the accrued interest and premium, if any, on the bonds or notes for the refunding of which such funding bonds shall have been issued. No funding bonds shall be issued having a stated maturity date later than the expiration of the useful life of the capital projects constructed or acquired from the proceeds of the debt originally incurred in respect of the bonds or notes being refunded, nor shall any funding bonds be issued to refund beyond the same fiscal year any portion of debt required by this article and the Constitution of Pennsylvania to be retired in the year of issue of such funding bonds in order to comply with the retirement in substantial and regular amounts as provided in subsection (d) of section 1607-B.

Section 1613-B. Reporting Requirements.—*The State Treasurer shall determine and report to the Budget Secretary by January 1 of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of such obligations, if any, for the following fiscal year and the times and amounts of such payments.*

Section 1614-B. Registration of Bonds.—*The Auditor General shall prepare the necessary registry books to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds of the Commonwealth according to the terms and conditions of issue specified by the issuing officials under subsection (d) of section 1607-B. All bonds which are issued without interest coupons attached shall be registered in the registry books kept by the duly authorized loan and transfer agent of the Commonwealth.*

Section 1615-B. Voting Requirements.—*Whenever in this article any action is to be taken or decision made by the issuing officials and the three officers shall not be able to agree unanimously, the action or decision of the Governor and either the Auditor General or State Treasurer shall be binding and final.*

Section 1616-B. Appropriation of Moneys.—*The moneys received by the Commonwealth from the issuance and sale of bonds and notes pursuant to this article and any debt authorizing act hereafter adopted shall be appropriated by the General Assembly from the Capital Facilities Fund in the debt authorizing acts for the purposes set forth therein.*

Section 1617-B. Constitutional Construction.—*The provisions of this article shall be severable and, if any of the provisions thereof shall be held unconstitutional, such decisions shall not affect the validity of any of the remaining provisions of this article. It is hereby declared as the legislative intent that this article would have been adopted had such unconstitutional provisions not been included therein.*

Section 3. All notes and bonds issued pursuant to the act of September 29, 1951 (P.L.1646, No.433), entitled, as amended, "An act authorizing the Commonwealth to negotiate temporary emergency loans to defray current

and other expenses of the State government during any fiscal period evidenced by tax anticipation notes, secured by and payable from current revenues of any current period levied, assessed, collectible and accruing during such fiscal period and the revenues of the Motor License Fund; defining the powers and duties of the Governor, the Auditor General and the State Treasurer in relation thereto; providing for the payment of interest on and the repayment of such loans; and making an appropriation," or the act of July 20, 1968 (P.L.550, No.217), known as the Capital Facilities Debt Enabling Act, shall continue in full force and effect and all rights, powers and remedies granted shall be exercised pursuant to Articles XVI-A and XVI-B of The Fiscal Code.

Section 4. The following acts are repealed:

Act of September 29, 1951 (P.L.1646, No.433), entitled, as amended, "An act authorizing the Commonwealth to negotiate temporary emergency loans to defray current and other expenses of the State government during any fiscal period evidenced by tax anticipation notes, secured by and payable from current revenues of any current period levied, assessed, collectible and accruing during such fiscal period and the revenues of the Motor License Fund; defining the powers and duties of the Governor, the Auditor General and the State Treasurer in relation thereto; providing for the payment of interest on and the repayment of such loans; and making an appropriation."

Act of July 20, 1968 (P.L.550, No.217), known as the Capital Facilities Debt Enabling Act.

Section 5. This act shall take effect in 30 days.

APPROVED—The 21st day of June, A. D. 1984.

DICK THORNBURGH