
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1024 Session of
2015

INTRODUCED BY FONTANA AND SCHWANK, OCTOBER 20, 2015

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
OCTOBER 20, 2015

AN ACT

1 Repealing the act of February 12, 2004 (P.L.73, No.11), entitled
2 "An act providing for intergovernmental cooperation in cities
3 of the second class; establishing an intergovernmental
4 authority; providing for financing, for bankruptcy and for
5 sovereign immunity; and making an appropriation."

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

8 Section 1. The act of February 12, 2004 (P.L.73, No.11),
9 known as the Intergovernmental Cooperation Authority Act for
10 Cities of the Second Class, is repealed:

11 [AN ACT

12 Providing for intergovernmental cooperation in cities of the
13 second class; establishing an intergovernmental authority;
14 providing for financing, for bankruptcy and for sovereign
15 immunity; and making an appropriation.

16 CHAPTER 1

17 GENERAL PROVISIONS

18 Section 101. Short title.

19 This act shall be known and may be cited as the

1 Intergovernmental Cooperation Authority Act for Cities of the
2 Second Class.

3 Section 102. Purpose and legislative intent.

4 (a) Policy.--It is hereby declared to be a public policy of
5 the Commonwealth to exercise its retained sovereign powers with
6 regard to taxation and matters of Statewide concern in a manner
7 calculated to foster the fiscal integrity of cities of the
8 second class to assure that these cities provide for the health,
9 safety and welfare of their citizens; pay principal and interest
10 owed on their debt obligations when due; meet financial
11 obligations to their employees, vendors and suppliers; and
12 provide for proper financial planning procedures and budgeting
13 practices. The inability of a city of the second class to
14 provide essential services to its citizens as a result of a
15 fiscal emergency is hereby determined to affect adversely the
16 health, safety and welfare not only of the citizens of that
17 municipality but also of other citizens in this Commonwealth.

18 (b) Legislative intent.--

19 (1) It is the intent of the General Assembly to:

20 (i) provide cities of the second class with the
21 legal tools with which such cities can perform essential
22 municipal services; and

23 (ii) foster sound financial planning and budgetary
24 practices for cities of the second class, which cities
25 shall be charged with the responsibility to exercise
26 efficient and accountable fiscal practices, such as:

27 (A) increased managerial accountability;

28 (B) consolidation or elimination of inefficient
29 city programs and authorities;

30 (C) reevaluation of tax exemption policies with

1 regard to real property taxes;

2 (D) increased collection of existing tax
3 revenues;

4 (E) privatization or outsourcing of appropriate
5 city services;

6 (F) sale of city assets as appropriate;

7 (G) improvement of procurement practices,
8 including competitive bidding procedures; and

9 (H) review of compensation and benefits of city
10 employees; and

11 (iii) exercise its powers consistent with the rights
12 of citizens to home rule and self-government.

13 (2) The General Assembly further declares that this
14 legislation is intended to remedy the apparent fiscal
15 emergency confronting cities of the second class through the
16 implementation of sovereign powers of the Commonwealth. To
17 safeguard the rights of the citizens to the electoral process
18 and home rule, the General Assembly intends to exercise its
19 power in an appropriate manner with the elected officers of
20 cities of the second class.

21 (3) It is further declared that this legislation is
22 intended to operate concurrently and equally with the act of
23 July 10, 1987 (P.L.246, No.47), known as the Municipalities
24 Financial Recovery Act.

25 Section 103. Legislative findings.

26 It is hereby determined and declared as a matter of
27 legislative finding that:

28 (1) Cities of the second class have encountered
29 recurring financial difficulties which may affect the
30 performance of necessary municipal services to the detriment

1 of the health, safety and general welfare of residents of
2 such cities.

3 (2) It is critically important that cities of the second
4 class maintain their creditworthiness.

5 (3) Due to the economic and social interrelationship
6 among all citizens in our economy, the fiscal integrity of
7 cities of the second class is a matter of concern to
8 residents of the entire Commonwealth, and the financial
9 problems of such cities have a direct and negative effect on
10 the entire Commonwealth.

11 (4) Because cities of the second class consume a
12 substantial proportion of the products of Pennsylvania's
13 farms, factories, manufacturing plants and service
14 enterprises, economic difficulties confronting cities of the
15 second class detrimentally affect the economy of the
16 Commonwealth as a whole and become a matter of Statewide
17 concern.

18 (5) Because residents of cities of the second class
19 contribute a substantial proportion of all Commonwealth tax
20 revenues, a disruption of the economic and social life of
21 such cities may have a significant detrimental effect upon
22 Commonwealth revenues.

23 (6) The financial difficulties of cities of the second
24 class can best be addressed and resolved by cooperation
25 between governmental entities.

26 (7) The Constitution of Pennsylvania grants
27 municipalities authority to cooperate with other governmental
28 entities in the exercise of any function or responsibility.

29 (8) The Commonwealth retains certain sovereign powers
30 with respect to cities of the second class, among them the

1 powers to authorize and levy taxes, to authorize the
2 incurring of indebtedness and to provide financial assistance
3 that may be necessary to assist cities in solving their
4 financial problems.

5 (9) The Commonwealth may attach conditions to grants of
6 authority to incur indebtedness or assistance to cities of
7 the second class in order to ensure that deficits are
8 eliminated and access to capital markets is achieved and
9 maintained.

10 (10) Such conditions shall be incorporated into
11 intergovernmental cooperation agreements between the
12 Commonwealth or its instrumentalities and cities of the
13 second class.

14 (11) Cities of the second class and the Commonwealth
15 will benefit from the creation of an independent authority
16 composed of members experienced in finance and management
17 which may advise such cities, the General Assembly and the
18 Governor concerning solutions to fiscal problems cities of
19 the second class may face.

20 (12) The creation of such an authority will allow such
21 cities to continue to provide the necessary municipal
22 services for their residents and to contribute to the economy
23 of the Commonwealth.

24 (13) Several task forces have studied the fiscal
25 condition of a city of the second class and have published
26 findings and suggestions regarding the fiscal structure of
27 the city and actions that could be taken concerning
28 preservation of the financial viability of the city into the
29 future. Those reports, widely known as the Competitive
30 Pittsburgh report, the PGH 21 report and the Governor's

1 Pittsburgh Economic Improvement Task Force report, should be
2 evaluated by the authority in making its recommendations to
3 the city. However, it is intended that the authority
4 established by this act examine the fiscal affairs of the
5 entire city of the second class, including all of its
6 authorities and related corporate entities.

7 Section 104. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Assisted city." A city of the second class which receives
12 assistance from the Intergovernmental Cooperation Authority for
13 Cities of the Second Class. The term includes any municipal
14 authority, other authority or other corporate entity which
15 directly or indirectly performs a governmental function on
16 behalf of the city, is directly or indirectly controlled by the
17 city or to which the city has direct or indirect power of
18 appointment or has directly or indirectly pledged or designated
19 the city's revenues or the city's credit.

20 "Authority." The Intergovernmental Cooperation Authority for
21 Cities of the Second Class established in section 201.

22 "Board." The governing board of the Intergovernmental
23 Cooperation Authority for Cities of the Second Class.

24 "City." A city of the second class.

25 "City account." A trust fund held for the exclusive benefit
26 of an assisted city.

27 "Corporate entity." A municipal authority, other authority
28 or other corporate entity which performs a governmental function
29 on behalf of the city or to which the city has power of
30 appointment or has pledged or designated revenues.

1 "Deficit." Such negative fund balance in any principal
2 operating fund or funds of a city or corporate entity existing
3 at the beginning of a fiscal year or projected to exist as of
4 the close of a fiscal year, as may be more specifically
5 identified, calculated and set forth in an intergovernmental
6 cooperation agreement or financial plan of an assisted city
7 described in section 209.

8 "Federal agency." The United States, the President of the
9 United States and any department or corporation, agency or
10 instrumentality created, designated or established by the United
11 States.

12 "Governing body." The legislative body of a city.

13 "Government agency." The Governor, departments, boards,
14 commissions, authorities and other officers and agencies of
15 State government, including those which are not subject to the
16 policy supervision and control of the Governor, any political
17 subdivision, municipal or other local authority and any officer
18 or agency of any such political subdivision or local authority,
19 but the term does not include any court or other officer or
20 agency of the unified judicial system or the General Assembly or
21 its officers and agencies.

22 "Intergovernmental cooperation agreement." Any agreement
23 made by the authority and a city under the provisions of section
24 203(d).

25 "Party officer." The following members or officers of any
26 political party:

27 (1) a member of a national committee;

28 (2) a chairman, vice chairman, secretary, treasurer or
29 counsel of a State committee or member of the executive
30 committee of a State committee;

1 (3) a county chairman, vice chairman, counsel, secretary
2 or treasurer of a county committee; or

3 (4) a chairman, vice chairman, counsel, secretary,
4 treasurer or ward leader of a city or municipal committee.

5 "Public official." Any elected or appointed official or
6 employee in the executive, legislative or judicial branch of the
7 Commonwealth or any political subdivision thereof, provided that
8 it shall not include members of advisory boards that have no
9 authority to expend public funds other than reimbursement for
10 personal expense or to otherwise exercise the power of the
11 Commonwealth or any political subdivision thereof. The term
12 shall not include any appointed official who receives no
13 compensation other than reimbursement for actual expenses.

14 CHAPTER 2

15 INTERGOVERNMENTAL COOPERATION AUTHORITY FOR
16 CITIES OF THE SECOND CLASS

17 Section 201. Authority established.

18 A body corporate and politic to be known as the
19 Intergovernmental Cooperation Authority for Cities of the Second
20 Class is established as a public authority and instrumentality
21 of the Commonwealth, exercising public powers of the
22 Commonwealth as an agency and instrumentality thereof. The
23 exercise by the authority of the powers conferred by this act is
24 hereby declared to be and shall for all purposes be deemed and
25 held to be the performance of an essential public function.

26 Section 202. Governing board.

27 (a) Composition of board.--

28 (1) The powers and duties of the authority shall be
29 exercised by a governing board composed of five members:

30 (i) One member shall be appointed by the President

1 pro tempore of the Senate.

2 (ii) One member shall be appointed by the Minority
3 Leader of the Senate.

4 (iii) One member shall be appointed by the Speaker
5 of the House of Representatives.

6 (iv) One member shall be appointed by the Minority
7 Leader of the House of Representatives.

8 (v) One member shall be appointed by the Governor.

9 (vi) The Secretary of the Budget and the director of
10 finance of each assisted city shall serve as ex officio
11 members of the board. The board and any appointed
12 coordinator shall cooperate in the sharing of reports,
13 information and recommendations with regard to the
14 assisted city. The ex officio members may not vote and
15 shall not be counted for purposes of establishing a
16 quorum. The Secretary of the Budget and the director of
17 finance of each assisted city may designate in writing a
18 representative of their respective offices to attend
19 meetings of the board on their behalf.

20 (2) All members and designees must have substantial
21 experience in finance or management.

22 (3) All members of the board must be residents of this
23 Commonwealth and, except the Secretary of the Budget, must
24 either be residents of the assisted city or have their
25 primary places of business or employment in that city.

26 (b) Term.--Appointing authorities shall appoint the initial
27 members of the board within seven days of the effective date of
28 this act, and the appointed members shall select a chairperson
29 from among themselves at the initial organizational meeting of
30 the board and upon any subsequent vacancy in the office of

1 chairperson. The term of a board member shall begin on the date
2 of the appointment. A member's term shall be coterminous with
3 that of the appointing authority. The member selected as
4 chairperson shall serve in that capacity for two years from the
5 date of selection or for the duration of his term on the board,
6 whichever is less, and may be reelected to subsequent two-year
7 terms. An appointed board member shall serve at the pleasure of
8 the member's appointing authority. Whenever a vacancy occurs
9 among the appointed members on the board, whether prior to or on
10 the expiration of a term, the appointing authority who
11 originally appointed the board member whose seat has become
12 vacant shall appoint a successor member within 30 days of the
13 vacancy. A member appointed by an appointing authority to fill a
14 vacancy occurring prior to the expiration of a term shall serve
15 the unexpired term.

16 (c) Organization.--The appointees of the President pro
17 tempore of the Senate and the Speaker of the House of
18 Representatives shall set a date, time and place for the initial
19 organizational meeting of the board within five days of the
20 appointment of the initial members of the board. The initial
21 organizational meeting shall be held within 15 days of the
22 effective date of this act. In addition to the chairperson, the
23 members shall elect such other officers as they may determine. A
24 member may hold more than one office of the board at any time.

25 (d) Meetings.--After the initial organizational meeting, the
26 board shall meet as frequently as it deems appropriate but at
27 least once during each quarter of the fiscal year. In addition,
28 a meeting of the board shall be called by the chairperson if a
29 request for a meeting is submitted to the chairperson by at
30 least two members of the board. A majority of the board shall

1 constitute a quorum for the purpose of conducting the business
2 of the board and for all other purposes. All actions of the
3 board shall be taken by a majority of the board except as
4 otherwise specifically noted. The provisions of 65 Pa.C.S. Ch. 7
5 (relating to open meetings) shall apply to the board.

6 (e) Expenses.--A member shall not receive compensation or
7 remuneration but shall be entitled to reimbursement for all
8 reasonable and necessary actual expenses.

9 (f) Employees and agents.--The board shall fix and determine
10 the number of employees of the authority and their respective
11 compensation and duties. The board may contract for or receive
12 the loan of services of persons in the employ of other
13 government agencies, and other government agencies shall be
14 authorized to make such employees available. The board may
15 retain an executive director upon a majority vote. The board
16 may, by a majority vote, hire an independent general counsel to
17 the authority and may engage consultants and contract for other
18 professional services upon a majority vote. The board may, upon
19 the approval of a majority, delegate to the executive director
20 such powers of the board as the board deems necessary to carry
21 out the purposes of the authority, subject in every case to the
22 supervision and control of the board.

23 (g) Public officials and party officers; conflicts of
24 interest prohibited.--

25 (1) Except for the Secretary of the Budget, neither
26 members of the board nor the executive director shall seek or
27 hold a position as any other public official within this
28 Commonwealth or as a party officer while in the service of
29 the authority. Members of the board and the executive
30 director shall not seek election as public officials or party

1 officers for one year after their service with the authority.
2 Members of the board and the executive director may serve as
3 appointive public officials any time after their periods of
4 service with the authority.

5 (2) Employees and agents of the authority shall not seek
6 or hold other positions as public officials or party officers
7 while in the employ of the authority. The authority may
8 receive the loan of services of persons in other government
9 agencies in accordance with subsection (f), notwithstanding
10 that such persons are public officials. Employees of the
11 authority shall not seek election as public officials or
12 party officers for one year after leaving the employ of the
13 authority.

14 (3) No member of the board or employee of the authority
15 may directly or indirectly be a party to or be interested in
16 any contract or agreement with the authority or with the
17 assisted city. No member or employee may use his office or
18 employment or any confidential information received through
19 his office or employment for the private pecuniary benefit of
20 himself, a member of his immediate family or a business with
21 which he or a member of his immediate family is associated.
22 Any member or employee who shall willfully violate this
23 provision shall forfeit his office or employment and shall be
24 subject to such other criminal and civil sanctions as may be
25 imposed by law. Any contract or agreement knowingly made in
26 contravention of this provision is void.

27 (h) Statutes applying to authority.--

28 (1) The provisions of the following acts shall apply to
29 the authority:

30 (i) 65 Pa.C.S. Ch. 7 (relating to open meetings).

1 (ii) The act of June 21, 1957 (P.L.390, No.212),
2 referred to as the Right-to-Know Law.

3 (iii) Except as set forth in paragraph (2), the act
4 of July 19, 1957 (P.L.1017, No.451), known as the State
5 Adverse Interest Act.

6 (iv) 65 Pa.C.S. Ch. 11 (relating to ethics standards
7 and financial disclosure).

8 (2) Notwithstanding the provisions of the State Adverse
9 Interest Act, the Secretary of the Budget and the director of
10 finance of each assisted city shall, while serving as ex
11 officio members of the board, also serve in their official
12 capacities with respect to the negotiation and execution of
13 intergovernmental cooperation agreements and other agreements
14 between an assisted city and the authority.

15 (i) Advisory committee.--

16 (1) The board may appoint by majority vote one advisory
17 committee comprised of professionals engaged in municipal
18 management and finance or other experts as it may deem
19 necessary. The members of an advisory committee shall reside
20 within an assisted city or a county within the statistical
21 metropolitan area in which the assisted city is located.

22 (2) The provisions of subsection (g) shall be applicable
23 to members of an advisory committee; however, the board may
24 allow city council to designate a liaison from city council
25 to serve on an advisory committee.

26 (3) The advisory committee shall consist of no more than
27 six members, excluding any council liaison.

28 Section 203. Powers and duties.

29 (a) General powers and duties.--The authority is established
30 for the purposes, without limitation, by itself or by agreement

1 in cooperation with others, of assisting cities in solving their
2 budgetary and financial problems.

3 (b) Specific duties.--The authority shall have the powers
4 and its duties shall be:

5 (1) To assist cities in achieving financial stability in
6 any manner consistent with the purposes and powers described
7 by this act.

8 (2) To assist cities in avoiding defaults, eliminating
9 and financing deficits and debts, maintaining sound budgetary
10 practices and avoiding the interruption of municipal
11 services.

12 (3) To negotiate intergovernmental cooperation
13 agreements with cities containing such terms and conditions
14 as will enable such cities to eliminate and avoid deficits,
15 maintain sound budgetary practices and avoid interruption of
16 municipal services.

17 (4) To make annual signed reports within 120 days after
18 the close of the assisted city's fiscal year, commencing with
19 the fiscal year ending December 31, 2003, to the Governor and
20 the General Assembly describing the city's financial
21 condition and the authority's progress with respect to
22 restoring the financial stability of assisted cities and
23 achieving balanced budgets for assisted cities. Such reports
24 shall be filed with the Governor, with the presiding officers
25 of the Senate and the House of Representatives, with the
26 chairperson and minority chairperson of the Appropriations
27 Committee of the Senate and the chairperson and the minority
28 chairperson of the Appropriations Committee of the House of
29 Representatives and with the governing body, mayor and
30 controller of the assisted city and be publicly available in

1 the assisted city during normal business hours for public
2 inspection, and may be reproduced by any member of the public
3 at commercial costs of reproduction. Such report shall
4 clearly show by consistent category the last five years of
5 operating revenues and expenditures, capital expenditures,
6 gross and net indebtedness transactions, including a schedule
7 of principal and interest, five-year projections of the
8 assisted city's operating and capital budgets, and the entire
9 projected indebtedness transactions, including a schedule of
10 principal and interest of such indebtedness until any and all
11 debt has been completely retired. Such report shall contain a
12 narrative explaining progress of the assisted city in meeting
13 its annual and five-year budgetary objectives, an appraisal
14 by the authority of the progress the assisted city is making
15 to achieve its goals and an appraisal of the extent to which
16 the assisted city is making a good faith effort to achieve
17 its goals. Such report shall disclose any violations of
18 Federal and State law that the authority may have discovered.
19 Such report shall include as appendixes all historical loans
20 or other contracts entered into by the assisted city and its
21 authorities.

22 (c) Specific powers.--In addition to the powers and duties
23 set forth elsewhere in this act, the authority shall have the
24 specific powers:

25 (1) To obtain copies of all reports and documents
26 regarding the revenues, expenditures, budgets, deficits,
27 debts, costs, plans, operations, estimates and any other
28 financial or budgetary matters of an assisted city.

29 (2) To obtain additional reports and information on the
30 above matters in such form as are deemed necessary by the

1 authority.

2 (3) To make factual findings concerning an assisted
3 city's budgetary and fiscal affairs.

4 (4) To make recommendations to an assisted city and the
5 General Assembly concerning the budgetary and fiscal affairs
6 of the assisted city, which shall include consideration of
7 the following issues and other issues at the discretion of
8 the authority:

9 (i) Consolidation or merger of services performed by
10 an assisted city, school, county or other surrounding
11 municipality.

12 (ii) Consolidation of public safety services.

13 (iii) Appropriate staffing levels of city
14 departments and corporate entities.

15 (iv) Cooperative agreements or contractual
16 arrangements between health care facilities licensed by
17 the Department of Health.

18 (v) Financial or contractual obligations of the
19 assisted city.

20 (vi) Contributions of nonprofit or charitable
21 organizations which receive the benefit of municipal
22 services provided by the assisted city.

23 (vii) Reduction or restructuring of debt
24 obligations.

25 (viii) Cooperative agreements between the assisted
26 city and the county in which it is located or
27 municipalities which border the assisted city.

28 (ix) Cooperative agreements between the assisted
29 city and the school district in which it is located.

30 (x) Collective bargaining agreements and other

1 contracts of the assisted city.

2 (xi) Elimination, sale or transfer of assisted city
3 services or property.

4 (xii) Implementation of cost-saving measures by the
5 assisted city.

6 (xiii) Increased managerial accountability.

7 (xiv) Performance of government operations and
8 delivery of municipal services.

9 (xv) Reevaluation of tax exemption policies and
10 practices with regard to real property taxation within
11 the assisted city.

12 (xvi) Improvements in procurement practices.

13 (xvii) Implementation of user fees for services,
14 including sewage, water treatment and refuse collection.

15 (xviii) Privatization and outsourcing of appropriate
16 assisted city services.

17 (xix) Increased collection of fines and costs
18 relating to parking violations or violations of other
19 city ordinances.

20 (xx) Competitive bidding of appropriate assisted
21 city services, and competitive bidding practices.

22 (xxi) The use of technology to achieve cost savings.

23 (xxii) A study of health care and other benefits
24 offered by the assisted city to its employees.

25 (xxiii) The sale of the assisted city's workers'
26 compensation fund.

27 (xxiv) The sale of unencumbered assets of the
28 assisted city or its authorities.

29 (xxv) The elimination or reorganization of
30 authorities or departments.

1 (xxvi) The use by the assisted city of tax and other
2 revenues received, including those received under the act
3 of July 28, 1953 (P.L.723, No.230), known as the Second
4 Class County Code, and the proper use of such revenues.

5 (xxvii) The use of budgetary practices and
6 principles as they relate to forecasting, public
7 openness, projections, estimates, tax policy, lending,
8 borrowing and strategic planning.

9 (xxviii) The transfers of employees and assets by
10 and between bureaus, departments and authorities of the
11 assisted city.

12 (xxix) Prior suggestions published by others prior
13 to the enactment of this act with regard to the assisted
14 city.

15 (xxx) A review of the taxing authority of the city
16 as compared with the taxing authority of school districts
17 of the first class A.

18 (xxxi) A review of the ratio of debt service to
19 general fund outlays of the assisted city, the
20 appropriate ratio and the means to achieve it.

21 (xxxii) A review of outstanding debt, debt payments
22 and the ability to prepay such debt.

23 (5) To make recommendations to the Governor and the
24 General Assembly regarding legislation or resolutions which
25 relate to an assisted city's fiscal stability. The authority
26 shall submit a preliminary report of the recommendations to
27 the Governor and the General Assembly within 60 days of the
28 effective date of this act. The report shall include, but not
29 be limited to, recommendations as to whether or not the city
30 needs additional revenues, the best sources of such revenues

1 and ways for the city to reduce expenditures. Any
2 recommendations for new revenue, if warranted, shall state
3 whether such revenues should be earmarked for specific
4 expenditures, including, but not limited to, prepayment of
5 debt, and whether such revenues should be subject to sunset
6 provisions.

7 (6) To exercise powers of review concerning the
8 budgetary and fiscal affairs of the assisted city consistent
9 with this act and the city's home rule charter or other
10 optional plan of government.

11 (7) To receive revenues from any source, directly or by
12 assignment, pledge or otherwise.

13 (8) To sue and be sued, implead and be impleaded,
14 interplead, complain and defend in all courts.

15 (9) To adopt, use and alter at will a corporate seal.

16 (10) To make bylaws for the management and regulation of
17 its affairs and adopt rules, regulations and policies in
18 connection with the performance of its functions and duties
19 which, notwithstanding any other provision of law to the
20 contrary, shall not be subject to review pursuant to the act
21 of June 25, 1982 (P.L.633, No.181), known as the Regulatory
22 Review Act.

23 (11) To make and enter into contracts and other
24 instruments necessary or convenient for the conduct of its
25 business and the exercise of the powers of the authority.

26 (12) To appoint officers, agents, employees and servants
27 and to prescribe their duties and to fix their compensation
28 as set forth in section 202(f).

29 (13) To retain counsel and auditors to render such
30 professional services as the authority deems appropriate. The

1 authority shall not be considered either an executive agency
2 or an independent agency for the purpose of the act of
3 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
4 Attorneys Act, but shall possess the same status for such
5 purpose as the Auditor General, State Treasurer and the
6 Pennsylvania Public Utility Commission, except that the
7 provisions of section 204(b) and (f) of the Commonwealth
8 Attorneys Act shall not apply to the authority;
9 notwithstanding 42 Pa.C.S. Ch. 85 (relating to matters
10 affecting government units), the authority, through its legal
11 counsel, shall defend actions brought against the authority
12 or its members, officers, officials and employees when acting
13 within the scope of their official duties.

14 (14) To cooperate with any Federal agency or government
15 agency.

16 (15) To acquire, by gift or otherwise, purchase, hold,
17 receive, lease, sublease and use any franchise, license,
18 property, real, personal or mixed, tangible or intangible or
19 any interest therein. However, the authority shall be
20 absolutely limited in its power to acquire real property
21 under this act to real property that will be used only for
22 the office space in which the authority will conduct its
23 daily business if necessary. If possible, an assisted city
24 shall provide office space to the authority at no cost to the
25 authority as part of an intergovernmental cooperation
26 agreement.

27 (16) To sell, transfer, convey and dispose of any
28 property, real, personal or mixed, tangible or intangible or
29 any interest therein.

30 (17) To enter into contracts for group insurance and to

1 contribute to retirement plans for the benefit of its
2 employees and to enroll its employees in an existing
3 retirement system of a government agency.

4 (18) To accept, purchase or borrow equipment, supplies,
5 services or other things necessary or convenient to the work
6 of the authority from other government agencies, and all
7 government agencies are authorized to sell, lend or grant to
8 the authority such equipment, supplies, services or other
9 things necessary or convenient to the work of the authority.

10 (19) To invest any funds held by the authority as set
11 forth in section 212.

12 (20) To receive and hold assets, moneys and funds from
13 any source, including, but not limited to, appropriations,
14 grants and gifts.

15 (21) To procure insurance, guarantees and sureties the
16 authority determines necessary or desirable for its purposes.

17 (22) To pledge the credit of the authority as the
18 authority determines necessary or desirable for its purposes.

19 (23) To do all acts and things necessary or convenient
20 for the promotion of its purposes and the general welfare of
21 the authority and to carry out the powers granted to it by
22 this act or any other acts.

23 (d) Intergovernmental cooperation agreements.--The authority
24 shall have the power and its duty shall be to enter into and to
25 implement fully such intergovernmental cooperation agreements
26 with cities as are approved by a majority of the board. The
27 following shall apply:

28 (1) A city may enter into an intergovernmental
29 cooperation agreement in which it, consistent with this act,
30 covenants to cooperate or agree in the exercise of any

1 function, power or responsibility with, or delegate or
2 transfer any function, power or responsibility to, the
3 authority upon the adoption by the governing body of such
4 city of an ordinance authorizing and approving the
5 intergovernmental cooperation agreement.

6 (2) An ordinance that authorizes a city to enter into an
7 intergovernmental cooperation agreement with the authority
8 shall specify:

9 (i) the purpose and objectives of the agreement;

10 (ii) the conditions of the agreement; and

11 (iii) the term of the agreement, including
12 provisions relating to its termination.

13 (e) Limitation.--Notwithstanding any purpose or general or
14 specific power granted by this act or any other act, whether
15 express or implied, the authority shall have no power to pledge
16 the credit or taxing powers of the Commonwealth.

17 Section 204. Term of existence.

18 The authority shall exist for a term of at least seven years.
19 If, after seven years, an assisted city has had annual operating
20 budgets and five-year financial plans approved by the board for
21 at least the three immediately preceding years, the Secretary of
22 Community and Economic Development shall certify that the
23 authority is no longer needed, and the provisions of this
24 chapter will no longer be in effect 90 days following that
25 certification. Upon termination of the authority, records and
26 documents of the authority shall be transferred to the director
27 of finance of the assisted city. The authority shall submit a
28 final report on its activities and the city's fiscal condition
29 to the Governor and the General Assembly within 60 days of its
30 termination.

1 Section 205. Fiscal year.

2 The fiscal year of the authority shall be the same as the
3 fiscal year of the Commonwealth.

4 Section 206. Annual budget of authority.

5 (a) Budget.--Before March 1, 2004, for the fiscal year July
6 1, 2004, to June 30, 2005, and before October 15, 2005, and each
7 October 15 thereafter, the authority shall adopt a budget by a
8 majority of the board setting forth in reasonable detail the
9 projected expenses of operation of the authority for the ensuing
10 fiscal year, including the salary and benefits of the executive
11 director and any other employees of the authority, and the
12 projected revenues of the authority to be derived from
13 investment earnings and any other moneys of the authority which
14 are estimated to be available to pay the operating expenses set
15 forth in the budget. A copy of the authority's budget shall be
16 submitted to the Governor and to the General Assembly. The
17 authority or its designated representatives may be afforded an
18 opportunity to appear before the Governor and the Appropriations
19 Committee of the Senate and the Appropriations Committee of the
20 House of Representatives regarding the authority's budget.

21 (b) Limit on operating expenses.--Following the submission
22 of the authority's budget to the Governor and the General
23 Assembly and any hearing held by an appropriations committee
24 under subsection (a), the General Assembly, by concurrent
25 resolution with presentment to the Governor, in accordance with
26 section 9 of Article III of the Constitution of Pennsylvania,
27 may limit the operating expenses of the authority. In that
28 event, it shall be unlawful for the authority to spend more for
29 operating expenses than the limit established for that fiscal
30 year by the concurrent resolution. If the General Assembly does

1 not adopt a concurrent resolution prior to May 30, the
2 authority's budget shall be deemed approved for that fiscal
3 year.

4 (c) Funding.--After July 1, 2005, upon request of the
5 authority and pursuant to the limits established in subsection
6 (b), the city shall annually fund any portion of the budget of
7 the authority which exceeds the authority's State appropriation,
8 including its reasonable and necessary expenses and costs
9 incurred for consultants engaged by the board to carry out its
10 duties.

11 (d) Examination of books.--The chairperson and minority
12 chairperson of the Appropriations Committee of the Senate and
13 the chairperson and minority chairperson of the Appropriations
14 Committee of the House of Representatives shall have the right
15 at any time to examine the books, accounts and records of the
16 authority.

17 Section 207. Annual report to be filed; annual audits.

18 The authority shall file a signed annual report with the
19 chairperson and the minority chairperson of the Appropriations
20 Committee of the Senate and chairperson and the minority
21 chairperson of the Appropriations Committee of the House of
22 Representatives, which shall make provisions for the accounting
23 of revenues and expenses. The authority shall have its books,
24 accounts and records audited annually in accordance with
25 generally accepted auditing standards by an independent auditor
26 who shall be a certified public accountant, and a copy of his
27 audit report shall be attached to and be made a part of the
28 authority's annual report. A concise financial statement shall
29 be published annually in the Pennsylvania Bulletin.

30 Section 208. Limit on city borrowing.

1 A city and its corporate entities may not borrow or receive
2 funds for any lawful purpose unless the city has entered into an
3 intergovernmental cooperation agreement with the authority and
4 there is an approved financial plan in effect.

5 Section 209. Financial plan of an assisted city.

6 (a) Requirement of a financial plan.--An assisted city shall
7 develop, implement and periodically revise a financial plan as
8 described in this section.

9 (b) Elements of plan.--The financial plan shall include:

10 (1) Projected revenues and expenditures of the principal
11 operating fund or funds of the assisted city for five fiscal
12 years consisting of the current fiscal year and the next four
13 fiscal years.

14 (2) Plan components that will:

15 (i) eliminate any projected deficit for the current
16 fiscal year and for subsequent fiscal years;

17 (ii) restore to special fund accounts money from
18 those accounts used for purposes other than those
19 specifically authorized;

20 (iii) balance the current fiscal year budget and
21 subsequent budgets in the financial plan through sound
22 budgetary practices, including, but not limited to,
23 reductions in expenditures, improvements in productivity,
24 increases in revenues or a combination of these steps;

25 (iv) provide procedures to avoid a fiscal emergency
26 condition in the future; and

27 (v) enhance the ability of the assisted city to
28 access short-term and long-term credit markets.

29 (c) Standards for formulation of plan.--

30 (1) All projections of revenues and expenditures in a

1 financial plan shall be based on prudent, reasonable and
2 appropriate assumptions and methods of estimation, all such
3 assumptions and methods to be consistently applied and
4 reported in the financial plan. The financial plan of an
5 assisted city shall not include projected revenue that in
6 order to be collected requires the enactment by the General
7 Assembly of new taxing powers.

8 (2) All revenue and appropriation estimates shall be on
9 a modified accrual basis in accordance with generally
10 accepted standards agreed to by the authority such as those
11 promulgated by the Governmental Accounting Standards Board.
12 Revenue estimates shall recognize revenues in the accounting
13 period in which they become both measurable and available.
14 Estimates of city-generated revenues shall be based on
15 current or proposed tax rates, historical collection patterns
16 and generally recognized econometric models. Estimates of
17 revenues to be received from the State government shall be
18 based on historical patterns, currently available levels or
19 on levels proposed in a budget by the Governor. Estimates of
20 revenues to be received from the Federal Government shall be
21 based on historical patterns, currently available levels or
22 on levels proposed in a budget by the President or in a
23 congressional budget resolution. Nontax revenues shall be
24 based on current or proposed rates, charges or fees,
25 historical patterns and generally recognized econometric
26 models. Appropriation estimates shall include, at a minimum,
27 all obligations incurred during the fiscal year and estimated
28 to be payable during the fiscal year or in the 24-month
29 period following the close of the current fiscal year and all
30 obligations of prior fiscal years not covered by encumbered

1 funds from prior fiscal years. Any deviations from these
2 standards of estimating revenues and appropriations proposed
3 to be used by an assisted city shall be specifically
4 disclosed and shall be approved by a majority of the board.

5 (3) All cash flow projections shall be based upon
6 prudent, reasonable and appropriate assumptions as to sources
7 and uses of cash, including, but not limited to, prudent,
8 reasonable and appropriate assumptions as to the timing of
9 receipt and expenditure thereof, and shall provide for
10 operations of the assisted city to be conducted within the
11 resources so projected. All estimates shall take due account
12 of the past and anticipated collection, expenditure and
13 service demand experience of the assisted city and of current
14 and projected economic conditions.

15 (d) Form of plan.--Each financial plan shall, consistent
16 with the requirements of an assisted city's home rule charter or
17 optional plan of government:

18 (1) be in such form and shall contain:

19 (i) for each of the first two fiscal years covered
20 by the financial plan, such information as shall reflect
21 an assisted city's total expenditures by fund and by lump
22 sum amount for each board, commission, department or
23 office of an assisted city; and

24 (ii) for the remaining three fiscal years of the
25 financial plan, such information as shall reflect an
26 assisted city's total expenditures by fund and by lump
27 sum amount for major object classification;

28 (2) include projections of all revenues and expenditures
29 for five fiscal years, including, but not limited to,
30 projected capital expenditures and short-term and long-term

1 debt incurrence and cash flow forecasts by fund for the first
2 year of the financial plan;

3 (3) include a schedule of projected capital commitments
4 of the assisted city and proposed sources of funding for such
5 commitments; and

6 (4) be accompanied by a statement describing in
7 reasonable detail the significant assumptions and methods of
8 estimation used in arriving at the projections contained in
9 such plan.

10 (e) Annual submission of plan.--Within 90 days of the
11 effective date of this section, an assisted city shall develop,
12 and the authority shall review and act upon, an initial five-
13 year financial plan which includes a report on the status of
14 implementation of prior published suggestions regarding
15 consolidation and cost savings. During each subsequent fiscal
16 year, the mayor or chief executive officer of each assisted city
17 shall, at least 100 days prior to the beginning of its fiscal
18 year or on such other date as the authority may approve upon the
19 request of the assisted city, prepare and submit its proposed
20 five-year plan. At the same time the plan is submitted, the
21 mayor or chief executive officer shall also submit to the
22 authority:

23 (1) the mayor's or chief executive officer's proposed
24 annual operating budget and capital budget which shall be
25 consistent with the first year of the financial plan and
26 which shall be prepared in accordance with the assisted
27 city's home rule charter or other optional plan of
28 government; and

29 (2) a statement by the mayor or chief executive officer
30 that such budget:

1 (i) is consistent with the financial plan;
2 (ii) contains funding adequate for debt service
3 payments, legally mandated services and lease payments
4 securing bonds of other government agencies;
5 (iii) is based upon prudent, reasonable and
6 appropriate assumptions and methods of estimation; and
7 (iv) complies with any balanced budget requirements
8 contained in the charter and ordinances of the city or
9 State law.

10 (f) Balanced budget requirement.--The mayor of every city
11 and assisted city shall submit, and the city council of every
12 city and assisted city shall adopt, a balanced budget each year
13 consistent with the requirements of 53 Pa.C.S. § 3016 (relating
14 to form and adoption of budget) and the city's or assisted
15 city's home rule charter or other optional plan of government. A
16 balanced budget of a city or assisted city shall not include
17 projected revenues that in order to be collected require the
18 enactment by the General Assembly of new taxing powers or the
19 approval of a court of common pleas of the county in which the
20 city or assisted city is located. The failure of a city or
21 assisted city to comply with this subsection shall result in the
22 withholding of Commonwealth funds pursuant to section 210(e) and
23 (f).

24 (g) Authority review and approval of plan.--

25 (1) The authority shall promptly review each financial
26 plan, proposed operating budget and capital budget submitted
27 by the assisted city. In conducting such review, the
28 authority shall request from the city controller of the
29 assisted city an opinion or certification, prepared in
30 accordance with generally accepted auditing standards, with

1 respect to the reasonableness of the assumptions and
2 estimates in the financial plan. The city controller and
3 other elected officials shall comply with any such request
4 from the authority. Not more than 30 days after submission of
5 a financial plan and proposed operating budget, the authority
6 shall determine whether:

7 (i) the financial plan projects balanced budgets,
8 based upon prudent, reasonable and appropriate
9 assumptions as described in this section, for each year
10 of the plan; and

11 (ii) the proposed operating budget and capital
12 budget are consistent with the proposed financial plan.

13 If the authority determines that these criteria are
14 satisfied, the authority shall approve such financial plan by
15 a majority vote.

16 (2) The authority shall not be bound by any opinions or
17 certifications of the city controller of the assisted city
18 issued pursuant to this subsection.

19 (3) If the authority fails to take any action within 30
20 days on a financial plan, the financial plan as submitted
21 shall be deemed approved. However, if, during the 30 days, a
22 written request by two members of the authority board for a
23 meeting and vote on the question of approval of the financial
24 plan has been submitted to the chairperson and a meeting and
25 vote do not take place, the financial plan shall be deemed
26 disapproved.

27 (h) Authority disapproval of plan.--

28 (1) If the authority disapproves the proposed financial
29 plan, the authority shall, when it notifies an assisted city
30 of its decision, state in writing in reasonable detail the

1 reasons for such disapproval, including the amount of any
2 estimated budget imbalance.

3 (2) The assisted city shall submit a revised financial
4 plan to the authority within 15 days of such disapproval,
5 which revised plan eliminates the budget imbalance. Not more
6 than 15 days after the submission of such revised financial
7 plan, the authority shall determine whether the revised plan
8 satisfies the criteria set forth in subsection (g)(1). If the
9 authority determines that these criteria are satisfied, the
10 authority shall approve such financial plan by a majority
11 vote. If the authority shall not so approve the financial
12 plan, then the authority shall, in accordance with section
13 210(e), certify the assisted city's noncompliance with the
14 financial plan to the Secretary of the Budget, the President
15 pro tempore of the Senate and the Speaker of the House of
16 Representatives.

17 (i) Revisions to plan.--

18 (1) The plan shall be revised on an annual basis to
19 include the operating budget for the next fiscal year and to
20 extend the plan for an additional fiscal year. In addition,
21 the mayor or chief executive officer of a city shall, within
22 90 days of assuming office, propose revisions to the
23 financial plan or certify to the authority that he or she
24 adopts the existing plan. An assisted city may, during the
25 course of a fiscal year, submit proposed revisions to the
26 financial plan and shall submit a proposed revision for any
27 amendment to the city's operating or capital budget.

28 (2) The authority shall review each proposed revision
29 within 20 days of its submission. The authority shall approve
30 the revision if it will not, based on prudent, reasonable and

1 appropriate assumptions, cause the plan to become imbalanced.
2 Proposed revisions shall become part of the financial plan
3 upon the approval of a majority of the authority board unless
4 some other method of approval is permitted by authority rules
5 and regulations approved by a majority or pursuant to an
6 agreement with the city contained in an intergovernmental
7 cooperation agreement. If the authority fails to take action
8 within 20 days on a proposed revision, such submission shall
9 be deemed approved unless a written request for a meeting and
10 vote has been made in accordance with subsection (g)(3), in
11 which event if a meeting and vote do not take place, the
12 proposed revision shall be deemed disapproved.

13 (3) If the governing body of a city adopts a budget
14 inconsistent with an approved financial plan, the assisted
15 city shall submit the enacted budget to the authority as a
16 proposed revision to the plan. The authority shall review the
17 proposed revision within 30 days of its submission in
18 accordance with the criteria set forth in subsection (g) and
19 the approval process set forth in paragraph (2).

20 (j) Supplemental reports.--Within 45 days of the end of each
21 fiscal quarter, or monthly if a variation from the financial
22 plan has been determined in accordance with section 210(c), the
23 mayor or chief executive officer of an assisted city shall
24 provide the authority with reports describing actual or current
25 estimates of revenues and expenditures compared to budgeted
26 revenues and expenditures for such period reflected in its cash
27 flow forecast. Each report required under this section shall
28 indicate any variance between actual or current estimates and
29 budgeted revenues, expenditures and cash for the period covered
30 by such report. An assisted city shall also provide periodic

1 reports on debt service requirements in conformity with section
2 210(b).

3 (k) Effect of plan upon contracts and collective bargaining
4 agreements.--

5 (1) A contract or collective bargaining agreement in
6 existence in an assisted city prior to the approval by the
7 authority of a financial plan submitted pursuant to this
8 section shall remain effective after approval of such plan
9 until such contract or agreement expires.

10 (2) After the approval by the authority of a financial
11 plan submitted pursuant to this section, an assisted city
12 shall execute contracts and collective bargaining agreements
13 in compliance with such plan. If an assisted city executes a
14 contract or a collective bargaining agreement which is not in
15 compliance with the plan, the contract or agreement shall not
16 be void or voidable solely by reason of such noncompliance,
17 but the assisted city shall submit to the authority a
18 proposed revision to the plan which demonstrates that
19 revenues sufficient to pay the costs of the contract or
20 collective bargaining agreement will be available in the
21 affected fiscal years of the plan.

22 (l) Effect of plan upon certain arbitration awards.--

23 (1) After the approval by the authority of a financial
24 plan submitted pursuant to this section, any determination of
25 a board of arbitration established pursuant to the provisions
26 of the act of June 24, 1968 (P.L.237, No.111), referred to as
27 the Policemen and Firemen Collective Bargaining Act,
28 providing for an increase in wages or fringe benefits of any
29 employee of an assisted city under the plan, in addition to
30 considering any standard or factor required to be considered

1 by applicable law, shall take into consideration and accord
2 substantial weight to:

3 (i) the approved financial plan; and

4 (ii) relevant market factors, such as the financial
5 situation of the assisted city, inflation, productivity,
6 size of work force and pay and benefit levels in
7 economically and demographically comparable political
8 subdivisions.

9 (2) Such determination shall be in writing and a copy
10 thereof shall be forwarded to each party to the dispute and
11 the authority. Any determination of the board of arbitration
12 which provides for an increase in wages or fringe benefits of
13 any employee of an assisted city shall state with specificity
14 in writing all factors which the board of arbitration took
15 into account in considering and giving substantial weight to
16 the factors referred to in paragraph (1).

17 (3) Any party to a proceeding before a board of
18 arbitration may appeal to the court of common pleas to
19 review:

20 (i) consideration under paragraph (1); or

21 (ii) failure of the board of arbitration to issue a
22 determination under paragraph (2).

23 (4) An appeal under paragraph (3) must be commenced not
24 later than 30 days after the issuance of a final
25 determination by the board of arbitration.

26 (5) The decision of the board of arbitration shall be
27 vacated and remanded to the board of arbitration if the court
28 finds:

29 (i) that the board of arbitration failed to take
30 into consideration and accord substantial weight to the

1 factors referred to in paragraph (1); or

2 (ii) that the board of arbitration has failed to
3 issue a determination under paragraph (2).

4 (6) If, after the exhaustion of all appeals, the final
5 arbitration award is not in compliance with the approved
6 financial plan, the award shall not be void or voidable
7 solely by reason of such noncompliance, but the assisted city
8 shall submit to the authority a proposed revision to the plan
9 which demonstrates that revenues sufficient to pay the costs
10 of the award will be available in the affected fiscal years
11 of the plan.

12 Section 210. Powers and duties of authority with respect to
13 financial plans.

14 (a) Formulation and approval of plan.--To advance the
15 financial recovery of each assisted city, the authority shall
16 require the assisted city to submit a five-year financial plan
17 in accordance with section 209. With regard to the formulation
18 of such plan, the authority shall:

19 (1) Consult with an assisted city as it prepares the
20 financial plan.

21 (2) Prescribe the form of the financial plan.

22 (3) Prescribe the supporting information required in
23 connection with such plan, such information to include at a
24 minimum:

25 (i) debt service payments due or projected to be due
26 during the relevant fiscal years;

27 (ii) payments for legally mandated services included
28 in the plan and due or projected to be due during the
29 relevant fiscal years; and

30 (iii) a statement in reasonable detail of the

1 significant assumptions and methods of estimation used in
2 arriving at the projections in the plan.

3 (4) Exercise any rights of approval or disapproval and
4 issue such recommendations as are authorized by this act in
5 accordance with the standards for formulation of the plan set
6 forth in section 209(c).

7 (b) Authority functions after plan is approved.--After a
8 financial plan has been approved, the authority shall:

9 (1) Receive and review:

10 (i) the financial reports submitted by the mayor or
11 chief executive officer of a city under section 209(j);

12 (ii) reports concerning the debt service
13 requirements on all bonds, notes of the assisted city and
14 lease payments of the assisted city securing bonds or
15 other government agencies for the following quarter,
16 which reports shall be in such form and contain such
17 information as the authority shall determine and which
18 shall be issued no later than 60 days prior to the
19 beginning of the quarter to which they pertain and shall
20 be updated immediately upon each issuance of bonds or
21 notes by the assisted city or execution of a lease
22 securing bonds of another government agency after the
23 date of such report to reflect any change in debt service
24 requirements as a result of such issuance; and

25 (iii) any additional information provided by the
26 assisted city concerning changed conditions or unexpected
27 events which may affect the assisted city's adherence to
28 the financial plan. The reports described in subparagraph
29 (ii) shall be certified by the city controller.

30 (2) Determine, on the basis of information and reports

1 described in paragraph (1), whether an assisted city has
2 adhered to the financial plan.

3 (c) Variation from the plan.--If the authority determines,
4 based upon reports submitted by an assisted city under
5 subsection (b) or independent audits, examinations or studies of
6 the assisted city's finances obtained under subsection (i)(3),
7 that an assisted city's actual revenues and expenditures vary
8 from those estimated in the financial plan, the authority shall
9 require the city to provide such additional information as the
10 authority deems necessary to explain the variation. The
11 authority shall take no action with respect to an assisted city
12 for departures from the financial plan in a fiscal quarter if:

13 (1) the city provides a written explanation for the
14 variation that the authority deems reasonable;

15 (2) the city proposes remedial action which the
16 authority believes will restore the assisted city's overall
17 compliance with the financial plan;

18 (3) information provided by the city in the immediately
19 succeeding quarterly financial report demonstrates that the
20 assisted city is taking such remedial action and otherwise
21 complying with the plan; and

22 (4) the assisted city submits monthly supplemental
23 reports in accordance with section 209(j) until it regains
24 compliance with the financial plan.

25 (d) Authority may make recommendations.--The authority may
26 at any time issue recommendations as to how an assisted city may
27 achieve compliance with the financial plan and shall provide
28 copies of such recommendations to the mayor or chief executive
29 officer and the governing body of the city and to the officials
30 named in section 203(b)(4).

1 (e) When Commonwealth shall withhold funds.--

2 (1) The authority shall certify to the Secretary of the
3 Budget an assisted city's noncompliance with the financial
4 plan during any period when the authority has determined by
5 the vote of a majority that the assisted city has not adhered
6 to the plan and has not taken acceptable remedial action
7 during the next quarter following such departure from the
8 plan.

9 (2) The authority shall certify to the Secretary of the
10 Budget that an assisted city is not in compliance with the
11 plan if the assisted city:

12 (i) has no financial plan approved by the authority,
13 has failed to provide requested documents or has failed
14 to file a financial plan with the authority; or

15 (ii) has failed to file mandatory revisions to the
16 plan or reports as required by section 209(i), (j), (k)
17 or (l).

18 (3) If the authority certifies that an assisted city is
19 not in compliance with the financial plan under paragraph (1)
20 or (2), the Secretary of the Budget shall notify the city
21 that such certification has been made and that each grant,
22 loan, entitlement or payment to the assisted city by the
23 Commonwealth shall be suspended pending compliance with the
24 financial plan. Funds withheld shall be held in escrow by the
25 Commonwealth until compliance with the plan is restored as
26 set forth in paragraph (4). Funds held in escrow pursuant to
27 this subsection shall not lapse pursuant to section 621 of
28 the act of April 9, 1929 (P.L.177, No.175), known as The
29 Administrative Code of 1929, or any other law.

30 (4) The authority shall, by majority vote, determine

1 when the conditions which caused an assisted city to be
2 certified as not in compliance with the financial plan have
3 ceased to exist and shall promptly notify the Secretary of
4 the Budget of such vote. The Secretary of the Budget shall
5 thereupon release all funds held in escrow, together with all
6 interest and income earned thereon during the period held in
7 escrow, and the disbursements of amounts in the city account
8 shall resume.

9 (f) Exemptions.--Notwithstanding the provisions of
10 subsection (e), the following shall not be withheld from an
11 assisted city:

12 (1) funds granted or allocated to an assisted city
13 directly from an agency of the Commonwealth or from the
14 Federal Government for distribution by the Commonwealth after
15 the declaration of a disaster resulting from a catastrophe;

16 (2) funds for capital projects under contract in
17 progress;

18 (3) pension fund payments required by law; and

19 (4) funds the assisted city has pledged to repay bonds
20 or notes.

21 (g) Effect of Commonwealth's failure to disburse funds.--The
22 provisions of subsection (e) shall not apply and an assisted
23 city shall not be found to have departed from the financial plan
24 due to the Commonwealth's failure to pay any money, including
25 payment of Federal funds distributed by or through the
26 Commonwealth, due to the assisted city from moneys appropriated
27 by the General Assembly.

28 (h) Assisted city to determine expenditure of available
29 funds.--Nothing in this act shall be construed to limit the
30 power of an assisted city to determine from time to time, within

1 available funds of the assisted city, the purposes for which
2 expenditures are to be made by the assisted city and the amounts
3 of such expenditures then permitted under the financial plan of
4 the assisted city.

5 (i) Documents and examinations to be reviewed or undertaken
6 by the authority.--The authority shall:

7 (1) receive from an assisted city and review the
8 reports, documents, budgetary and financial planning data and
9 other information prepared by or on behalf of such assisted
10 city and which are to be made available to the authority
11 under this act;

12 (2) inspect and copy such books, records and information
13 of an assisted city as the authority deems necessary to
14 accomplish the purposes of this act; and

15 (3) conduct or cause to be conducted such independent
16 audits, examinations or studies of an assisted city's
17 finances as the authority deems appropriate.

18 (j) Remedies of authority for failure of an assisted city to
19 file financial plans and reports.--In the event that an assisted
20 city shall fail to file with the authority any financial plan,
21 revision to a financial plan, report or other information
22 required to be filed with the authority pursuant to this act,
23 the authority, in addition to all other rights which the
24 authority may have at law or in equity, shall have the right by
25 mandamus to compel the assisted city and the officers, employees
26 and agents thereof to file with the authority the financial
27 plan, revision to a financial plan, report or other information
28 which the assisted city has failed to file. The authority shall
29 give the assisted city written notice of the failure of the
30 assisted city to file and of the authority's intention to

1 initiate an action under this subsection and shall not initiate
2 such an action earlier than ten days after the giving of such
3 notice.

4 Section 211. Limitation on authority and on assisted cities to
5 file petition for relief under Federal bankruptcy
6 law.

7 (a) Limitation on bankruptcy filing.--Notwithstanding any
8 other provision of law, the authority and any assisted city
9 shall not be authorized to file a petition for relief under 11
10 U.S.C. Ch. 9 (relating to adjustments of debts of a
11 municipality) or any successor Federal bankruptcy law, and no
12 government agency shall authorize the authority or such city to
13 become a debtor under 11 U.S.C. Ch. 9 or any successor Federal
14 bankruptcy law.

15 (b) Bankruptcy filing approval.--In addition to the
16 limitation set forth in subsection (a) and notwithstanding any
17 other provision of law, no city shall be authorized to file a
18 petition for relief under 11 U.S.C. Ch. 9 or any successor
19 Federal bankruptcy law unless such petition has been submitted
20 to, and the filing thereof has been approved in writing by, the
21 Governor. The Governor is designated in accordance with 11
22 U.S.C. § 109(c)(2) (relating to who may be a debtor) as the
23 organization of the Commonwealth which shall have power to
24 approve or disapprove the filing of any such petition of a
25 political subdivision and to approve or disapprove any plan of
26 readjustment of the debts of any such political subdivision
27 prepared, filed and submitted with the petition to the court, as
28 provided under 11 U.S.C. Ch. 9.

29 (c) Review of bankruptcy petition.--

30 (1) When any such petition shall be submitted to the

1 Governor for approval, accompanied with a proposed plan of
2 readjustment of the debts of a city, the Governor shall make
3 a careful and thorough investigation of the financial
4 condition of such city, of its assets and liabilities, of its
5 sinking fund and whether the affairs thereof are managed in a
6 careful, prudent and economic manner in order to ascertain
7 whether the presentation of such petition is justified or
8 represents an unjust attempt by such city to evade payment of
9 some of its contractual obligations and, if the Governor
10 believes that such petition should be approved, whether the
11 plan of readjustment submitted will be helpful to the
12 financial condition of the city and is feasible and, at the
13 same time, fair and equitable to all creditors.

14 (2) The Governor shall also, prior to giving his
15 approval, ascertain the amount, if any, of the obligations of
16 any such petitioning city which is held by any agency or
17 agencies of the State government as trust funds and shall,
18 before approving any such petition and plan of readjustment,
19 consult with and give every such agency an opportunity to be
20 heard and the privilege to examine the findings of the
21 Governor resulting from the investigation required to be made
22 under this act and shall likewise hear any other creditor of
23 such city, whether resident in or outside this Commonwealth,
24 who shall apply therefor.

25 (3) The Governor, if he approves a petition, shall,
26 before giving his approval, require such modification in the
27 proposed plan for readjusting the debts as to him appears
28 proper.

29 Section 212. Investment of funds.

30 Funds of the authority which are not required for immediate

1 use may be invested in obligations of an assisted city or in
2 obligations of the Federal Government or of the Commonwealth or
3 obligations which are legal investments for Commonwealth funds.
4 However, no money may be invested in obligations issued by or
5 obligations guaranteed by an assisted city without the approval
6 of a majority of the board.

7 Section 213. Sovereign immunity.

8 Members of the board shall not be liable personally for any
9 obligations of the authority. It is hereby declared to be the
10 intent of the General Assembly that the authority created by
11 this act and its members, officers, officials and employees
12 shall enjoy sovereign and official immunity as provided in 1
13 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed;
14 specific waiver) and shall remain immune from suit except as
15 provided by and subject to the provisions of 42 Pa.C.S. §§ 8501
16 (relating to definitions) through 8528 (relating to limitations
17 on damages).

18 CHAPTER 7

19 MISCELLANEOUS PROVISIONS

20 Section 701. Appropriation.

21 The sum of \$200,000 is hereby appropriated from the General
22 Fund to the Intergovernmental Cooperation Authority for Cities
23 of the Second Class as a continuing appropriation for the
24 purpose of providing operating funds for the Intergovernmental
25 Cooperation Authority for Cities of the Second Class. This
26 appropriation shall lapse June 30, 2005.

27 Section 702. General rights and prohibitions.

28 Nothing in this act shall limit the rights or impair the
29 obligations of any assisted city to comply with the provisions
30 of any contract in effect on the effective date of this act or

1 shall in any way impair the rights of the obligees of any
2 assisted city with respect to any such contract.

3 Section 703. Nondiscrimination.

4 The authority shall comply in all respects with the
5 nondiscrimination and contract compliance plans used by the
6 Department of General Services to assure that all persons are
7 accorded equality of opportunity in employment and contracting
8 by the authority and its contractors, subcontractors, assignees,
9 lessees, agents, vendors and suppliers.

10 Section 704. Construction of act.

11 (a) Liberal construction.--The provisions of this act
12 providing for security for and rights and remedies of obligees
13 of the authority shall be liberally construed to achieve the
14 purposes stated and provided for by this act.

15 (b) Severability.--If any provision of the title or any
16 chapter, section or clause of this act or the application
17 thereof to any person, party or corporation, public or private,
18 shall be judged invalid by a court of competent jurisdiction,
19 such order or judgment shall be confined in its operation to the
20 controversy in which it was rendered and shall not affect or
21 invalidate the remainder of any provision of the title or any
22 chapter or any section or clause of this act or the application
23 of any part thereof to any other person, party or corporation,
24 public or private, or circumstance, and to this end the
25 provisions of the title or any chapter, section or clause of
26 this act hereby are declared to be severable. It is hereby
27 declared as the legislative intent that this act would have been
28 adopted had any provision declared unconstitutional not been
29 included herein.

30 Section 705. Limitation of authority powers.

1 Except as provided in section 210(i), nothing contained in
2 this act shall be construed to confer upon the authority any
3 powers with respect to a school district.

4 Section 706. Repeal.

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

7 Section 707. Effective date.

8 This act shall take effect immediately.]

9 Section 2. This act shall take effect in 60 days.