

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 104 Session of 2017

INTRODUCED BY GODSHALL, MOUL, GILLEN, B. MILLER AND KORTZ, JANUARY 23, 2017

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 22, 2018

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in municipal authorities, further
3 providing for money of authority and for transfer of existing
4 facilities to authority and providing for sale or transfer of
5 authority water or sewer infrastructure.

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

8 Section 1. Sections 5612(b) and 5613(b) of Title 53 of the <--
9 Pennsylvania Consolidated Statutes are amended to read:

10 SECTION 1. SECTION 5612(B) OF TITLE 53 OF THE PENNSYLVANIA <--
11 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY
12 ADDING A SUBSECTION TO READ:

13 § 5612. Money of authority.

14 * * *

15 (b) Report.--[Every authority whose fiscal year ends
16 December 31 shall file on or before July 1 an annual report of
17 its fiscal affairs covering the preceding calendar year with the
18 Department of Community and Economic Development and with the
19 municipality creating the authority on forms prepared and

1 distributed by the Department of Community and Economic
2 Development. Authorities whose fiscal year does not end on
3 December 31 shall file the report within 90 days after the end
4 of their fiscal year.]

5 (1) Every authority shall file, on or before 180 days
6 following the end of its fiscal year, an annual report of its
7 fiscal affairs covering the preceding fiscal year with the
8 Department of Community and Economic Development and with the
9 municipality or municipalities creating the authority on
10 forms prepared and distributed by the Department of Community
11 and Economic Development. The report shall also be posted on
12 the authority's publicly accessible Internet website. If the
13 authority does not maintain a publicly accessible Internet
14 website, the report shall be provided by electronic or other
15 means to any other municipality that has customers served by
16 the authority.

17 (2) Every authority shall have its books, accounts and
18 records audited annually by a certified public accountant,
19 and a copy of his audit report shall be filed in the same
20 manner and within the same time period as the annual report.
21 A concise financial statement shall be published annually at
22 least once in a newspaper of general circulation in the
23 municipality where the principal office of the authority is
24 located. If the publication is not made by the authority, the
25 municipality shall publish such statement at the expense of
26 the authority. If the authority fails to make such an audit,
27 then the controller, auditor or accountant designated by the
28 municipality is hereby authorized and empowered from time to
29 time to examine at the expense of the authority the accounts
30 and books of it, including its receipts, disbursements,

1 contracts, leases, sinking funds, investments and any other
2 matters relating to its finances, operation and affairs.

3 * * *

4 (D) AUDITOR GENERAL.--THE AUDITOR GENERAL, THROUGH AGENTS AS <--
5 THE AUDITOR GENERAL MAY SELECT, SHALL PERFORM AN AUDIT OF A
6 MUNICIPAL AUTHORITY LOCATED IN A COUNTY OF THE THIRD CLASS WITH
7 A POPULATION OF MORE THAN 355,000 BUT LESS THAN 400,000,
8 INCORPORATED PURSUANT TO THIS CHAPTER AS A PUBLIC CORPORATION OF
9 THE COMMONWEALTH OF PENNSYLVANIA ON APRIL 15, 1942, AND
10 ORGANIZED FOR THE PURPOSE OF PROVIDING MUNICIPAL SERVICES,
11 PRINCIPALLY CONSISTING OF OPERATION OF A WATER COLLECTION,
12 TREATMENT AND DISTRIBUTION SYSTEM. THE AUDIT SHALL BE A THOROUGH
13 REVIEW OF ALL FINANCIAL INFORMATION AND EXAMINE THE
14 EFFECTIVENESS, ECONOMY AND EFFICIENCY OF THE AUTHORITY,
15 INCLUDING, BUT NOT LIMITED TO, A REVIEW OF BILLING SYSTEMS,
16 ACQUISITIONS OF OTHER MUNICIPAL AUTHORITIES, CONTRACT PROCESSES
17 AND TRANSPARENCY, MANAGEMENT PRACTICES, CONFLICTS OF INTEREST
18 AND COMPLIANCE WITH RELEVANT FEDERAL AND STATE STATUTES BY THE
19 AUTHORITY, ITS BOARD MEMBERS AND ITS CONTRACTORS. FOR THIS
20 PURPOSE, THE AUDITOR GENERAL MAY EMPLOY CONSULTANTS, EXPERTS,
21 ACCOUNTANTS OR INVESTIGATORS AS THE AUDITOR GENERAL MAY DEEM
22 ADVISABLE AND CONDUCT THE AUDIT INDEPENDENTLY OF ANY OTHER
23 AUDITS. THE AUDIT SHALL BE CONCLUDED BY DECEMBER 31, 2019, AND
24 MAY INCLUDE RECOMMENDATIONS ON HOW TO IMPROVE PROCEDURES AND
25 ACTIVITIES TO ENHANCE ECONOMY, EFFICIENCY AND EFFECTIVENESS IN
26 ANY AREAS COVERED BY THE AUDIT.

27 SECTION 2. SECTION 5613(B) OF TITLE 53 IS AMENDED TO READ:
28 § 5613. Transfer of existing facilities to authority.

29 * * *

30 (b) Acquisition.--

1 (1) An authority may not acquire by any device or means,
2 including a consolidation, merger, purchase or lease or
3 through the purchase of stock, bonds or other securities,
4 title to or possession or use of all or a substantial portion
5 of any existing facilities constituting a project [as defined
6 under this chapter] if the project is subject to the
7 jurisdiction of the Pennsylvania Public Utility Commission
8 without first reporting to and advising the municipality
9 which created or which are members of the authority of the
10 agreement to acquire, including all its terms and conditions.

11 (2) The proposed action of the authority and the
12 proposed agreement to acquire shall be approved by the
13 governing body of the municipality which created or which are
14 members of the authority and to which the report is made.
15 Where there are one or two member municipalities of the
16 authority, such approval shall be by two-thirds vote of all
17 of the members of the governing body or of each of the
18 governing bodies. If there are more than two member
19 municipalities of the authority, approval shall be by
20 majority vote of all the members of each governing body of
21 two-thirds of the member municipalities.

22 (3) An authority may not acquire by a device or means,
23 including a consolidation, merger, purchase or lease or
24 through the purchase of stock, bonds or other security, title
25 to or possession or use of all or a substantial portion of a
26 facility constituting a project, unless the authority has
27 discussed the acquisition at a public meeting and the written
28 minutes of the meeting contain details relating to the
29 anticipated or projected public benefit that will be realized
30 by the acquisition. For purposes of this paragraph, a public

1 benefit may include rate reduction, improved service quality,
2 rate stabilization, improved service reliability, action
3 resulting from an agreement with a Federal or State
4 regulatory agency or other clearly defined benefit to a
5 ratepayer of the authority.

6 * * *

7 Section 2 3. Title 53 is amended by adding a section to <--
8 read:

9 § 5613.1. Sale or transfer of authority water or sewer
10 infrastructure.

11 (a) Prohibition.--An authority may not sell or transfer
12 title to all or a portion of the water or sewer infrastructure
13 of the authority, unless the authority has discussed the sale or
14 transfer at a public meeting and the written minutes of the
15 meeting contain details relating to the anticipated or projected
16 public benefit that will be realized by the sale or transfer.

17 (b) Definition.--As used in this section, the term "public
18 benefit" may include a rate reduction, improved service quality,
19 rate stabilization, improved service reliability, action
20 resulting from an agreement with a Federal or State regulatory
21 agency or other clearly defined benefit to a ratepayer of the
22 authority.

23 Section 3 4. The addition of 53 Pa.C.S. § 5613(b) (3) shall <--
24 apply to title to or possession or use of all or a substantial
25 portion of a facility constituting a project which is acquired
26 on or after the effective date of this section.

27 Section 4 5. The addition of 53 Pa.C.S. § 5613.1 shall apply <--
28 to the sale or transfer of title to all or a portion of the
29 water or sewer infrastructure sold or transferred on or after
30 the effective date of this section.

1 Section 5 6. This act shall take effect in ~~60~~ 90 days.

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