

Senate Local Government Committee



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SENATE BILL 343 - P.N. 477

SYNOPSIS:

Senate Bill 343 would enact the First Class City and County Interest Rate Management Agreement Act, establishing requirements for interest-rate management agreements, also known as "swaps."

SUMMARY:

Definitions:

Senate Bill 343 defines a "contracting authority," as:

1. A city of the first class.
2. A county of the first class
3. A municipal authority created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) by city of the first class or county of the first class.

An "interest rate management agreement," (otherwise known as a swap) is defined as an agreement, including a confirmation evidencing a transaction effected under a master agreement, entered into by a contracting authority in accordance with and fulfilling the requirements of section 2, which agreement in the judgement of the contracting authority is designed to manage interest rate risk or interest cost of the contracting authority on any debt or other debt-related obligations a contracting authority is authorized to incur, including, but not limited to, swaps interest rate caps, collars, corridors, ceiling and floor agreements, forward agreements, float agreements and other similar arrangements which in the judgement of the contracting authority will assist the contracting authority in managing the interest rate risk or interest cost of the contracting authority.

Interest Rate Management Agreement Requirements:

Senate Bill 343 establishes the following requirements for interest rate management agreements entered into by a contracting authority:

- Requires a contracting authority to authorize and award by resolution each interest rate management agreement or any confirmation of a transaction.
- Prohibits payments on behalf of a contracting authority by the other party to an interest rate management agreement except periodic scheduled payments, termination payments and attorney fees, and other consultant fees incurred in connection with entering into an interest rate management agreement.
- Requires periodic scheduled payments on an interest rate management agreement to begin no later than three years after the date of the confirmation of the agreement.
- Requires that the index or basis used for calculating the periodic scheduled payments receivable by the contracting authority be the same index as on the associated debt.
- Limits the sum of all interest rate management agreements entered into by a contracting authority to 30% of the total principal amount of outstanding debt supported by its general fund.
- Requires that all scheduled periodic payments and termination payments received by a contracting authority on an interest management agreement be deposited into a payment account to be used for the following purposes:

1. To make periodic swap payments or to pay principal and interest on the debt or debt-related obligations related to the interest rate management agreement.
 2. If the interest rate management agreement has been terminated, the funds are to be used to pay periodic swap payments on other interest rate management agreements or principal and interest on debt or debt-related obligations payable from or supported by the same fund or revenues.
 3. If all interest rate management agreements have been terminated and there are no other outstanding debt or debt-related obligations, then the funds are to be used to pay any other obligations of the contracting authority.
- Requires that the expiration of an interest rate management agreement not exceed 10 years unless it contains a provision allowing the contracting authority to terminate the agreement after 10 years without making a termination payment.
 - Requires that the interest rate management agreement contain a certification by the other party to the agreement verifying that it acknowledges the following:
 1. That the contracting authority entering into the agreement is a political subdivision of the Commonwealth or a municipal authority created by a city of the first class or a county of the first class.
 2. That it has read the First Class City and County Interest Rate Management Agreement Act.
 3. That a contracting authority may only enter into an interest rate management agreement to manage interest rate risk or interest cost on debt or other debt-related obligations of the authority.
 4. That it will notify the Department of Community and Economic Development in writing of the date and amount of a termination payment made by the contracting authority.

Notice and Retention of Records

Within 15 days following the adoption of a resolution authorizing an interest rate management agreement, the contracting authority shall file with the Department of Community and Economic Development certified copies of the resolution with an itemized statement of all attorney fees, consultant fees and any other costs expected to be paid on behalf of a contracting authority by the other party to the agreement.

The department shall keep copies of all filed documents as long as the interest rate management agreement is in effect.

Financial Reporting

A contracting authority shall include in its annual financial statement information with respect to each interest rate management agreement it has authorized or entered into, including any information required pursuant to any statement issued by the Governmental Accounting Standards Board.

Effective Date: 60 days.