

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1100 Session of 1987

INTRODUCED BY PIEVSKY, IRVIS, MANDERINO, KUKOVICH, STEIGHNER, GEORGE, SALOOM, GRUITZA, HALUSKA, RYBAK, BROUJOS, BELARDI, WAMBACH, MAIALE, CAPPABIANCA, VAN HORNE, STUBAN, COY, LEVDANSKY, FEE, JOSEPHS, LaGROTTA, COWELL, DOMBROWSKI, SEVENTY, KASUNIC, WOZNIAK, CALTAGIRONE, DeWEESE, DeLUCA, RUDY, MRKONIC, OLASZ, D. R. WRIGHT, BUSH, BOYES, BELFANTI, SHOWERS, STABACK, BALDWIN, DUFFY, TIGUE, BLAUM, McHALE, LLOYD, MARKOSEK, SWEET, BORTNER, GAMBLE, LUCYK, MAINE, GEIST, OLIVER, JAROLIN, KOSINSKI, COLE, MELIO, GRUPPO, DALEY, O'DONNELL, ACOSTA, LINTON, ITKIN, CARN, MICHLOVIC, MILLER, HAYDEN, S. H. SMITH, WOGAN, FREEMAN, F. TAYLOR, LIVENGOOD, McCALL, LAUGHLIN, LESCOVITZ, COLAFELLA, YANDRISEVITS, VEON, RIEGER, CORRIGAN, PRESSMANN, EVANS, MORRIS, PRESTON, FOX, RITTER, PISTELLA AND BATTISTO, APRIL 21, 1987

AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 1, 1987

AN ACT

1 Providing for the establishment, implementation and
2 administration of the Pennsylvania Infrastructure Investment
3 Authority; imposing powers and duties on a board of trustees;
4 transferring the rights, powers, duties and obligations of
5 the Water Facilities Loan Board to the Pennsylvania
6 Infrastructure Investment Authority; providing for the
7 issuance of notes and bonds; providing for financial
8 assistance and for a comprehensive water facilities plan; and
9 making repeals.

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

17 Section 1. Short title.

18 This act shall be known and may be cited as the Pennsylvania
 19 Infrastructure Investment Authority Act.

20 Section 2. Legislative intent.

21 The General Assembly finds and declares that:

22 (1) The health of millions of citizens of this
 23 Commonwealth is at risk due to substandard and deteriorated
 24 water supply and sewage disposal systems.

25 (2) Many water and sewage systems in this Commonwealth
 26 are aging, outmoded, inadequate, deteriorating and operating
 27 above capacity, and many areas have to limit their growth
 28 solely due to lack of proper water supply and sewage
 29 disposal.

30 (3) The economic revitalization of this Commonwealth is

1 being stifled by a lack of clean water and adequate sewage
2 facilities.

3 (4) Financing of water and sewage projects at affordable
4 cost is not currently available in many areas of this
5 Commonwealth.

6 (5) In order to assist in financing projects to protect
7 the health and safety of the citizens of this Commonwealth
8 and to promote the economic development of Pennsylvania, the
9 General Assembly has determined that it is necessary to
10 establish the Pennsylvania Infrastructure Investment
11 Authority and to provide funding of the authority programs.

12 Section 3. Definitions.

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

16 "Authority." The Pennsylvania Infrastructure Investment
17 Authority.

18 "Board." The board of directors of the authority.

19 "Bonds." Bonds, notes or other evidences of indebtedness
20 issued by the authority pursuant to this act.

21 "Eligible cost." The cost of all labor, materials, machinery
22 and equipment, lands, property, rights and easements, plans and
23 specifications, surveys or estimates of costs and revenues,
24 engineering and legal services, and all other expenses necessary
25 or incident to the acquisition, construction, improvement,
26 expansion, EXTENSION, repair or rehabilitation of all or part of <—
27 a project.

28 "Governmental unit." Any agency of the Commonwealth or any
29 county, municipality or school district, or any agency,
30 instrumentality, authority or corporation thereof, or any public

1 body having local or regional jurisdiction or power.

2 "Partnership." The Pennsylvania Economic Development
3 Partnership established by the act of _____, 19____ (P.L. _____,
4 No. _____).

5 "Project." The ELIGIBLE COSTS ASSOCIATED WITH THE _____ <—
6 acquisition, construction, improvement, expansion, EXTENSION, <—
7 repair or rehabilitation of all or part of any facility or
8 system, WHETHER PUBLICLY OR PRIVATELY OWNED, for the collection, <—
9 treatment or disposal of wastewater, including industrial waste,
10 or for the supply, storage or distribution of drinking water.

11 "Secretary." The Secretary of the Pennsylvania Economic
12 Development Partnership.

13 "Water Facilities Loan Board." The board established under
14 32 Pa.C.S. § 7504 (relating to Water Facilities Loan Board).
15 Section 4. Pennsylvania Infrastructure Investment Authority;
16 _____ board of directors.

17 (a) Establishment.--There is hereby established a body
18 corporate and politic, with corporate succession, to be known as
19 the Pennsylvania Infrastructure Investment Authority. The
20 authority is constituted an instrumentality of the Commonwealth,
21 and the exercise by the authority of the powers conferred by
22 this act shall be deemed and held to be a public and essential
23 governmental function.

24 (b) Membership.--The authority shall consist of ~~a ten member~~ <—
25 AN 11-MEMBER board of directors composed of the Governor, the <—
26 majority and minority leaders of the Senate, the majority and
27 minority leaders of the House of Representatives, the Secretary
28 of the Pennsylvania Economic Development Partnership, the
29 Secretary of Community Affairs, the Secretary of Environmental
30 Resources, the Secretary of General Services ~~and~~, the Secretary <—

1 of the Budget AND THE CHAIRMAN OF THE PENNSYLVANIA PUBLIC
2 UTILITY COMMISSION.

<—

3 (c) Officers.--The Governor shall be the chairman and chief
4 executive officer of the authority. The board shall biannually
5 elect a vice-chairman. The board shall select a secretary and
6 treasurer who need not be members of the board, and the same
7 person may be selected to serve as both secretary and treasurer.

8 (d) Vesting of powers.--The powers of the authority shall be
9 vested in the board in office from time to time, and seven
10 members of the board shall constitute a quorum at any meeting.
11 Action may be taken and motions and resolutions adopted by the
12 authority by the affirmative vote of at least seven members of
13 the board. No vacancy on the board shall impair the right of a
14 quorum of the members of the board to exercise the powers and
15 perform the duties of the authority.

16 (e) Designees.--Each member of the board may designate
17 someone to represent him at meetings of the board. Each designee
18 may lawfully vote and otherwise act on behalf of the member of
19 the board for whom he constitutes the designee. The designation
20 shall be in writing delivered to the authority and shall
21 continue in effect until revoked or amended in writing delivered
22 to the authority.

23 (f) Services.--Research, investigation and other services
24 necessary for the operation of the board shall be carried out
25 from resources and by employees from the various executive
26 departments represented on the board. All applicable
27 Commonwealth departments and agencies shall cooperate with, and
28 provide assistance to, the board ~~without~~, WHICH MAY, AT ITS
29 DISCRETION, PROVIDE financial reimbursement.

<—

30 (g) Dissolution.--The authority may be dissolved by law,

1 provided that the authority has no bonds or other debts or
2 obligations outstanding or that provision has been made for the
3 payment or retirement of all such bonds, debts and obligations.
4 Upon any dissolution of the authority, all property, funds and
5 assets of the authority shall be vested in the Commonwealth.

6 Section 5. Revenues of authority.

7 (a) Sources of revenues.--The authority may receive money
8 from sources of revenue, including, but not limited to, the
9 following:

10 (1) State funds appropriated to the authority.

11 (2) Federal funds appropriated to or granted to the
12 authority.

13 (3) Proceeds from the sale of bonds of the authority
14 authorized under section 7.

15 (4) Proceeds from the sale of bonds issued on or after
16 the effective date of this act from the remaining unused
17 authorization from the act of July 12, 1981 (P.L.263, No.88),
18 entitled "An act authorizing the incurring of indebtedness,
19 with approval of the electors, of \$300,000,000 for the
20 repair, construction, reconstruction, rehabilitation,
21 extension and improvement of community water supply systems,
22 and for the repair, reconstruction or rehabilitation of flood
23 control facilities, dams and port facilities and providing
24 the allotment of proceeds from borrowing hereunder," approved
25 by the electorate on November 3, 1981.

26 (5) Proceeds from the sale of bonds issued for site
27 development under the provisions of Article XVI-B of the act
28 of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

29 (6) Proceeds from the sale of any other Commonwealth
30 general obligation bonds designated for the authority.

- 1 (7) Proceeds from the sale of authority assets.
- 2 (8) Repayment of loan principal.
- 3 (9) Payment of interest on loans made by the authority.
- 4 (10) Interest earned on the investments of authority
- 5 moneys.

6 (b) Control of revenues; investment of funds.--The board
7 shall have exclusive control and management of all moneys of the
8 authority and full power to invest moneys not required for
9 immediate use in any securities or other investments in which
10 funds of the Commonwealth are authorized to be invested and in
11 any other type of security or investment if, prior to the
12 acquisition of the securities or investments, the board
13 determines by resolution that such type of security or
14 investment is in the best interests of the authority and the
15 State Treasurer approves of such type of security or other
16 investment.

17 (c) General fund and other separate funds or accounts.--The
18 board shall establish a general fund from which it may authorize
19 expenditures for any of the purposes of this act. The board may
20 also establish revolving funds and accounts and other separate
21 funds and accounts when separate accounting for different
22 sources of funds is required by State or Federal law or when
23 otherwise determined by the board to be necessary or convenient.

24 (d) Loan repayment.--Subject to any agreement with the
25 holders of bonds, repayments of loan principal, together with
26 any interest thereon, shall be deposited with the authority and
27 credited to such fund or account as the board shall determine.
28 Loans made by the Water Facilities Loan Board prior to the
29 effective date of this act and repayment of the principal of and
30 interest on those loans shall be controlled by the provisions of

1 Title 32 of the Pennsylvania Consolidated Statutes (relating to
2 forests, waters and State parks) AND THE REGULATIONS PROMULGATED <—
3 THEREUNDER. The board shall maintain such separate funds and
4 accounts as may be necessary for the deposit of payments made
5 under authority or requirement of State or Federal law.

6 Section 6. Powers and duties of authority.

7 The authority shall have and may exercise all powers
8 necessary or appropriate to carry out and effectuate the
9 purposes of this act, including, but not limited to, the
10 following:

11 (1) Conduct examinations and investigations and take
12 testimony, under oath or affirmation, at public or private
13 hearings, on any matter necessary to the determination and
14 approval of project applications.

15 (2) Sue and be sued, implead and be impleaded, complain
16 and defend in all courts.

17 (3) Adopt, use and alter at will a corporate seal.

18 (4) Make bylaws for the management and regulation of its
19 affairs, and make and, from time to time, amend and repeal
20 rules and regulations governing the ~~conduct of the~~ <—
21 ADMINISTRATIVE PROCEDURES AND business of the authority. <—

22 (5) Make contracts of every name and nature and execute
23 all instruments necessary or convenient for the carrying on
24 of its business.

25 (6) Accept grants from and enter into contracts or other
26 transactions with any Federal, State or local agency.

27 (7) Take title ~~for~~ BY foreclosure or otherwise to any <—
28 project or other property pledged, mortgaged, encumbered or
29 otherwise available as security for a project financed in
30 whole or in part by the board, whether by loan, loan

1 guarantee or otherwise, where such acquisition is necessary
2 to protect the interests of the board with respect to a
3 project; pay all costs arising out of such acquisition from
4 moneys held in the trust fund; and sell, transfer and convey
5 all or any portion of any such project to any responsible
6 buyer. THE BOARD MAY REQUIRE A DEDICATED SOURCE OF REVENUE TO ←
7 BE AVAILABLE FOR REPAYMENT OF ANY LOAN.

8 (8) Provide financial assistance, including, but not
9 limited to, loans, loan guarantees, bond guarantees and
10 grants for projects fulfilling the purposes of this act.

11 (9) Collect fees and charges, as the board determines to
12 be reasonable, relating to activities undertaken in
13 furtherance of the purposes of this act.

14 (10) Borrow money and issue bonds and provide for the
15 right of holders thereof in accordance with the provisions of
16 this act.

17 (11) Pledge, hypothecate or otherwise encumber all or
18 any of the revenues or receipts of the authority as security
19 for all or any of the bonds of the authority.

20 (12) Receive appropriations and apply for and accept
21 grants, gifts, donations, bequests and settlements from any
22 public or private source.

23 (13) Acquire, own, hold, construct, improve,
24 rehabilitate, renovate, operate, maintain, sell, assign,
25 exchange, lease, mortgage or otherwise dispose of real and
26 personal property or any interest therein in the exercise of
27 its powers and the performance of its duties under this act.

28 (14) Procure insurance against any loss in connection
29 with its property and other assets and operations in any
30 amounts and from any insurers as it deems desirable.

1 (15) Contract for the services of attorneys, accountants
2 and financial experts and any other advisors, consultants and
3 agents as may be necessary in its judgment, SUBJECT TO THE <—
4 REQUIREMENT THAT THE CHAIRMAN SHALL ENSURE THAT MINORITY-
5 OWNED OR MINORITY-CONTROLLED FIRMS SHALL HAVE AN OPPORTUNITY
6 TO PARTICIPATE TO A SIGNIFICANT DEGREE IN THE PROVISION OF
7 ANY CONTRACTUAL SERVICES PURCHASED BY THE AUTHORITY.

8 (16) Subject to any agreement with holders of its bonds,
9 notes or other obligations, purchase bonds, notes and other
10 obligations of the authority.

11 (17) Subject to any agreement with holders of its bonds,
12 notes or other obligations, obtain as security for payment of
13 all or any part of the principal of and interest and premium
14 on the bonds, notes and other obligations of the authority,
15 lines of credit and letters of credit in any amounts and upon
16 any terms as the authority may determine, and pay any fees
17 and expenses required in connection therewith.

18 (18) Do any act necessary or convenient to the exercise
19 of the ~~foregoing powers~~ POWERS ENUMERATED IN THIS SECTION or <—
20 reasonably implied therefrom.

21 (19) Serve as the Water Facilities Loan Board to satisfy
22 any outstanding bond obligation and loan liabilities.

23 (20) Assume all the rights, powers, duties, obligations
24 and liabilities of the Water Facilities Loan Board.

25 (21) Repay the General Fund any or all debt service due
26 to be paid in any fiscal year from bonds used to fund
27 projects under this act.

28 ~~(22) Establish bylaws and other appropriate rules and <—~~
29 ~~guidelines necessary to carry out the purposes of this act.~~

30 (22) PREPARE PLANS AND REPORTS AND PROVIDE FOR PUBLIC <—

1 PARTICIPATION AS DEEMED APPROPRIATE.

2 Section 7. Specific power to issue bonds.

3 (a) Principal amounts.--The authority may issue its bonds,
4 notes or other obligations in principal amounts as in the
5 judgment of the authority shall be necessary to provide
6 sufficient funds for any of its corporate purposes. Corporate
7 purposes shall be deemed to include:

8 (1) The payment, funding or refunding of the principal
9 of, or interest or redemption premiums on, any bonds issued
10 by it, whether the bonds to be funded or refunded have or
11 have not become due.

12 (2) The establishment or increase or reserves to secure
13 or to pay the bonds or interest thereon.

14 (3) All other costs or expenses of the authority
15 incident to and necessary to carry out its corporate purposes
16 and powers.

17 (b) Negotiable instrument designation.--Whether or not the
18 bonds are of a form and character as to be negotiable
19 instruments under the terms of Title 13 of the Pennsylvania
20 Consolidated Statutes (relating to commercial code), the bonds
21 are made negotiable instruments within the meaning of and for
22 the purposes of Title 13, subject only to the provisions of the
23 bonds for registration.

24 (c) Resolution; terms of bonds.--Bonds shall be authorized
25 by resolution of the board, may be issued in one or more series
26 and shall bear any date or dates, mature at any time or times
27 not later than 35 years from the date of issuance thereof, bear
28 interest at any rate or rates or at variable rates, be in any
29 denomination or denominations, be in any form, either coupon or
30 registered, carry any conversion or registration privileges,

1 have any rank or priority, be executed in any manner, be payable
2 from such sources in any medium of payment at any place or
3 places within or without this Commonwealth, and be subject to
4 any terms of redemption, purchase or tender by the authority or
5 the holders thereof, with or without premium, as the resolution
6 or resolutions may provide. A resolution of the authority
7 authorizing the issuance of bonds may provide that the bonds be
8 secured by a trust indenture between the authority and a
9 trustee, vesting in the trustee any property, rights, powers and
10 duties in trust consistent with the provisions of this act as
11 the authority may determine. Such resolution may further provide
12 for the acquisition of credit enhancement devices such as bond
13 insurance, letters of credit or any other instruments to carry
14 out the provisions of this section.

15 (d) Public or private sale.--Bonds may be sold at public or
16 private sale at any price or prices and in any manner as the
17 authority may determine, SUBJECT TO THE REQUIREMENT THAT THE
18 CHAIRMAN SHALL ENSURE THAT MINORITY-OWNED OR MINORITY-CONTROLLED
19 FIRMS SHALL HAVE AN OPPORTUNITY TO PARTICIPATE TO A SIGNIFICANT
20 DEGREE IN ANY BOND SALE ACTIVITIES.

21 (e) No prior preconditions on bond issuance.--Bonds may be
22 issued under the provisions of this act without obtaining the
23 consent of any department, division, board, bureau or agency of
24 the Commonwealth and without any other proceeding or the
25 happening of any other conditions or other things than those
26 proceedings, conditions or things which are specifically
27 required by this act.

28 (f) Limitation on obligations.--Bonds issued under the
29 provisions of this act shall not be a debt or liability of the
30 Commonwealth or of any of its political subdivisions other than

1 the authority and shall not create or constitute any
2 indebtedness, liability or obligation of the Commonwealth or of
3 any political subdivision. All bonds shall be payable solely
4 from revenues or funds pledged or available for their payment as
5 authorized in this act, including the proceeds of any issue of
6 bonds. Each bond shall contain on its face a statement to the
7 effect that the authority is obligated to pay the principal
8 thereof or the interest thereon only from its revenues, receipts
9 or funds pledged or available for their payment as authorized in
10 this act, that neither the Commonwealth nor any political
11 subdivisions are obligated to pay the principal or interest, and
12 that neither the faith and credit nor the taxing power of the
13 Commonwealth or any political subdivision is pledged to the
14 payment of the principal of or the interest on the bonds.

15 (g) Nature of obligation and payment.--Each issue of bonds
16 may, if it is determined by the authority, be general
17 obligations of the authority payable out of any revenues,
18 receipts or funds of the authority, or special obligations
19 payable out of particular revenues, receipts or funds, subject
20 only to agreements with the holders of the bonds. Bonds may be
21 secured by one or more of the following:

22 (1) Pledges of revenues and other receipts to be derived
23 from the payment of the interest on and any principal of
24 notes and bonds issued by one or more governmental units and
25 purchased by the authority, and any other payment made to the
26 authority pursuant to agreements with any governmental unit
27 or a pledge or assignment of any notes and bonds of any
28 governmental units, and the rights and interests of the
29 authority therein.

30 (2) Pledges of loan payments, rentals, other revenues to

1 be derived from loan agreements, leases or other contractual
2 arrangements with any person or entity, public or private, or
3 a pledge or assignment of any such loan agreements, leases or
4 other contractual arrangements, and the rights and interests
5 of the authority therein.

6 (3) Pledges of grants, subsidies, contributions,
7 appropriations or other payments to be received from the
8 Federal Government or any instrumentality thereof or from the
9 Commonwealth, any Commonwealth agency or other governmental
10 unit.

11 (4) Pledges of all moneys, funds, accounts, securities
12 and other funds, including the proceeds of the bonds.

13 (5) Mortgages and security interests covering all or
14 part of any project or other property of any person or
15 entity, real or personal, then owned or thereafter to be
16 acquired, or a pledge or assignment of mortgages and security
17 interests made or granted to the authority by any person or
18 entity, and the rights and interests of the authority
19 therein.

20 Section 8. Covenants and express conditions on obligations.

21 In any resolution of the authority authorizing or relating to
22 the issuance of bonds, the authority, in order to secure payment
23 of the bonds, and, in addition to its other powers, may, by
24 provisions in the resolution which shall constitute covenants by
25 the authority and contracts with the holders of the bonds, do
26 the following:

27 (1) Secure the bonds.

28 (2) Make covenants against pledging all or part of its
29 revenues or receipts to other parties.

30 (3) Make covenants limiting its right to sell, pledge or

1 otherwise dispose of notes and bonds of governmental units,
2 loan agreements of public or private persons or entities, or
3 other property of any kind.

4 (4) Make covenants as to additional bonds to be issued,
5 the limitations thereon, the terms and conditions thereof,
6 and the custody, application, investment and disposition of
7 the proceeds thereof.

8 (5) Make covenants as to the incurring of other debts by
9 it.

10 (6) Make covenants as to the payment of principal of or
11 interest on bonds, the sources and methods of the payment,
12 the rank or priority of bonds with respect to liens or
13 security interests or the acceleration of maturity of bonds.

14 (7) Provide for replacement of lost, stolen, destroyed
15 or mutilated bonds.

16 (8) Make covenants as to the redemption, purchase or
17 tender of bonds by the authority, or the holders thereof, and
18 the privileges of exchanging them for other bonds.

19 (9) Make covenants to create or authorize the creation
20 of special funds or accounts to be held in trust or otherwise
21 for the benefit of holders of bonds, or of reserves for other
22 purposes and as to the use, investment and disposition of
23 moneys held in those funds, accounts or reserves.

24 (10) Provide for the rights, liabilities, powers and
25 duties arising upon the breach of a covenant, condition or
26 obligation and prescribe the events of default and the terms
27 and conditions upon which any or all of the bonds shall
28 become or may be declared due and payable before maturity and
29 the terms and conditions upon which the declaration and its
30 consequences may be waived.

1 (11) Vest in a trustee or trustees within or without
2 this Commonwealth in trust any property, rights, powers and
3 duties as the authority may determine. These may include any
4 or all of the rights, powers and duties of any trustee
5 appointed by the holders of bonds or notes, including rights
6 with respect to the sale or other disposition of notes and
7 bonds of governmental units and other instruments and
8 security pledged pursuant to a resolution or trust indenture
9 for the benefit of the holders of bonds and the right, by
10 suit or action, to foreclose any mortgage pledged pursuant to
11 the resolution of trust indenture for the benefit of the
12 holders of the bonds, notes or other obligations, and to
13 limit the right of the holders of any bonds to appoint a
14 trustee under this act and to limit the rights, powers and
15 duties of the trustee.

16 (12) Pay the costs or expenses incident to the
17 enforcement of the bonds or the provisions of the resolution
18 authorizing the issuance of those bonds, or the trust
19 indenture securing the bonds or any covenant or agreement of
20 the authority with the holders of the bonds, notes or other
21 obligations.

22 (13) Limit the rights of the holders of any bonds to
23 enforce any pledge or covenant securing bonds.

24 (14) Make covenants other than or in addition to the
25 covenants authorized by this act of like or different
26 character and make covenants to do or refrain from doing any
27 acts and things as may be necessary, or convenient and
28 desirable, in order to better secure bonds or which, in the
29 absolute discretion of the authority, will tend to make bonds
30 more marketable, notwithstanding that the covenants, acts or

1 things may not be enumerated herein.

2 Section 9. Nature and effect of pledges.

3 A pledge of revenues, receipts, moneys, funds or other
4 property or instruments made by the authority shall be valid and
5 binding from the time when the pledge is made. The revenues,
6 receipts, moneys, funds or other property pledged and thereafter
7 received by the authority shall be immediately subject to the
8 lien or the pledge without its physical delivery or further act,
9 and the lien of any pledge shall be valid and binding as against
10 all parties having claims of any kind in tort, contract or
11 otherwise against the authority irrespective of whether the
12 parties have notice of the lien. Neither the resolution nor any
13 other instrument by which a pledge under this section is created
14 or evidenced need be filed or recorded except in the records of
15 the authority.

16 Section 10. Financial assistance.

17 (a) Project priorities.--

18 (1) The authority may only provide financial assistance
19 to projects which shall meet the following requirements:

20 (i) The project is necessary to ensure the health
21 and safety of the citizens of this Commonwealth, or the
22 project is necessary for the economic vitality of the
23 area the project serves, OR THE PROJECT IS NECESSARY TO <—
24 COMPLY WITH FEDERAL OR STATE ENVIRONMENTAL LAWS OR
25 REGULATIONS.

26 (ii) The project, with this assistance, will proceed
27 in an expeditious manner.

28 (iii) Financial assistance is necessary in order for
29 the project to be completed in a reasonable amount of
30 time.

1 (2) The board shall consult with the Department of
2 Environmental Resources and the partnership in assigning
3 priorities to each project. When necessary to comply with
4 Federal law, priorities assigned by the Department of
5 Environmental Resources shall be binding on the authority,
6 but under no circumstances shall the authority be required by
7 the Department of Environmental Resources to fund these
8 prioritized projects.

9 (3) The board shall attempt to ensure that funds are
10 always available for emergency situations which immediately
11 threaten the health and safety of the residents of this
12 Commonwealth and for economic development when the project
13 must be completed in a short time period in order to attract
14 or retain business within this Commonwealth.

15 (4) THE BOARD SHALL ESTABLISH A PROGRAM OF ASSISTANCE TO ←
16 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS SERVING COMMUNITIES
17 WITH A POPULATION OF 12,000 PEOPLE, OR LESS, OR SYSTEMS
18 HAVING HOOKUPS OF 1,000 OR LESS.

19 (b) Grants.--Grants shall be made only when the board, in
20 its sole discretion, determines that the financial condition of
21 the recipient is such that repayment of a loan is unlikely and
22 that the recipient will not be able to proceed with the project
23 without a grant. In considering grant applications, the
24 authority may recommend, either before or after the
25 determination of the board, that the recipient pursue other
26 State grant programs, including, but not limited to, the Site
27 Development program, the Federal Small Communities Block Grant
28 program and the Federal Urban Development Action Grant program.
29 Should the board determine that a grant is necessary from the
30 authority, the board shall attempt to mix the grant funds with

1 loan funds, if financially possible.

2 (c) Loans.--Subject to any agreements with the holders of
3 bonds, the board shall have the power to set interest rates and
4 other terms applicable to loans in any manner it deems
5 appropriate. The board may consider such factors as it deems
6 relevant, including current market interest rates, the financial
7 and economic distress of the area which the project serves, and
8 the necessity to maintain the authority funds in a financially
9 sound manner. Loans may be made based on the ability to repay
10 the loan from future revenue to be derived from the project, by
11 a mortgage or other property lien, or on any other fiscal
12 matters which the authority deems appropriate. The board shall
13 also have the power to provide loans at zero interest and
14 deferred principal loans. IN THE EVENT OF A DEFAULT ON THE <—
15 REPAYMENT OF A LOAN, THE BOARD MAY APPLY TO THE COURT OF COMMON
16 PLEAS OF THE COUNTY WHERE THE PROJECT IS LOCATED FOR THE
17 APPOINTMENT OF A RECEIVER TO ASSUME OPERATION AND SUPERVISION OF
18 THE FACILITY UNDER THE SUPERVISION OF THE COURT.

19 (d) Limitation on annual assistance.--The amount of
20 assistance approved by the board under subsection ~~(e)~~ (B) shall <—
21 not in any fiscal year exceed the amount of interest earnings,
22 State appropriations and any funds received specifically for
23 grants which are deposited into the ~~general fund of the trust~~ <—
24 ~~fund~~ ACCOUNTS OF THE AUTHORITY. <—

25 (e) Other assistance.--The board shall have the power to use
26 other methods of financial assistance, including, but not
27 limited to, bond and loan guarantees, and may buy or insure
28 bonds if the board deems this to be an appropriate method to
29 accomplish the purposes of this act.

30 (f) Limitation.--~~The~~ EXCEPT FOR PROJECTS APPROVED UNDER <—

1 SECTION 10(A)(3), THE board shall not advance any grant or loan
2 or any other funds to any person or entity in respect to any
3 project until such project shall have been itemized and approved
4 in a capital budget act. This limitation shall not prevent the
5 board from approving projects which are subject to such later
6 itemization and approval prior to funding such approved
7 projects.

8 (G) CONTAINING EDUCATION OF OPERATION.--NO AGREEMENT WITH <—
9 INDIVIDUALS OR ENTITIES SHALL BE VALID IN THE ABSENCE OF AN
10 AGREEMENT BY THE INDIVIDUALS OR ENTITIES SEEKING ASSISTANCE
11 UNDER THIS ACT TO ASSURE THAT THE SYSTEM OPERATORS ARE
12 PARTICIPATING OR WILL PARTICIPATE IN CONTINUING EDUCATION
13 PROGRAMS DEVELOPED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES.
14 IF THE BOARD DETERMINES THAT THE SYSTEM OPERATOR OF A SYSTEM
15 RECEIVING ASSISTANCE IS NOT PARTICIPATING IN CONTINUING
16 EDUCATION PROGRAMS, THE BOARD SHALL TAKE ALL STEPS NECESSARY TO
17 CEASE ALL FINANCIAL ASSISTANCE AND RECOVER ALL PRIOR PAYMENTS,
18 INCLUDING, BUT NOT LIMITED TO, THE IMMEDIATE REPAYMENT OF ANY
19 OUTSTANDING LOANS AND INTEREST AND ANY GRANTS.

20 ~~(g)~~ (H) Inspection of project and records.-- <—

21 (1) The applicant shall allow the ~~Water Facilities Loan~~ <—
22 ~~Board~~ AUTHORITY and its successors, agents and <—
23 representatives the right, at all reasonable times during
24 construction and after completion of the project, to enter
25 upon and inspect the project and to examine and make copies
26 of the applicant's books, records, accounting data and other
27 documents pertaining to the project and the financial
28 condition of the applicant.

29 (2) The applicant may be required by the board or its
30 agent to have prepared independent audits of its financial

1 documents and conditions and submit a certified copy of the
2 audits to the board.

3 (I) FINANCIAL ANALYSIS.--THE FINANCIAL ANALYSIS USED BY THE ←
4 BOARD TO DETERMINE THE NEED OF ALL APPLICANTS FOR FINANCIAL
5 ASSISTANCE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

6 (1) FAIR AND REASONABLE COSTS OF WASTEWATER TREATMENT OR
7 OF SUPPLYING DRINKING WATER INCURRED BY COMPARABLE SYSTEMS.

8 (2) THE INCOMES OF AFFECTED RATEPAYERS AND THEIR ABILITY
9 TO PAY INCREASED RATES NECESSARY TO COMPLETE THE PROPOSED
10 PROJECTS.

11 (3) OTHER SOURCES OF FINANCING AVAILABLE TO INDIVIDUALS
12 OR ENTITIES SEEKING ASSISTANCE UNDER THIS ACT.

13 (4) A DETERMINATION THAT ANY FINANCIAL ASSISTANCE
14 PROVIDED BY THIS ACT WILL NOT BE USED TO SUPPLANT FINANCIAL
15 RESOURCES ALREADY AVAILABLE TO THE APPLICANT.

16 Section 11. Comprehensive water facilities plan.

17 The Department of Environmental Resources shall prepare and
18 submit to the authority a comprehensive plan for wastewater
19 disposal and piped drinking water facilities in this
20 Commonwealth. The plan should include, but not be limited to:

21 (1) An inventory of the existing facilities located
22 within this Commonwealth, including, but not limited to,
23 identification of the type, capacity, location, current
24 condition and year constructed.

25 (2) An inventory of drinking water and sewage
26 construction needs.

27 (3) Identification of the major issues and problems that
28 the Commonwealth must deal with in order to address its water
29 infrastructure needs, including financial as well as
30 nonfinancial issues.

1 (4) Recommendations for programs to encourage the
2 construction of drinking water and sewage treatment
3 facilities. This may include innovative financing mechanisms,
4 alternative technology and ownership structures, and
5 technical assistance.

6 (5) Identification of emerging issues, trends and
7 problems that might affect these facilities.

8 The plan shall be updated at least every five years.

9 Section 12. Audits.

10 The accounts and books of the authority, including its
11 receipts, disbursements, contracts, mortgages, investments and
12 other matters relating to its finances, operation and affairs,
13 shall be examined and audited ~~every two years~~ by the Auditor
14 General. <—

15 SECTION 13. ANNUAL REPORT. <—

16 THE BOARD SHALL PROVIDE THE GENERAL ASSEMBLY WITH AN ANNUAL
17 REPORT DETAILING ALL PROJECTS FUNDED UNDER SECTION 10(A)(3) OF
18 THIS ACT AND ALL PROJECTS RECEIVING ASSISTANCE FROM COMMUNITIES
19 FACILITIES FUNDS.

20 Section ~~13~~ 14. Expedited approval of rate relief. <—

21 For the limited and special purpose of ensuring repayment of
22 principal and interest on loans made pursuant to this act, the
23 Pennsylvania Public Utility Commission shall approve such
24 security issues, affiliated interest agreements and rate
25 increase requests by applicants that are regulated utilities as
26 are necessary and appropriate. For this purpose, the
27 Pennsylvania Public Utility Commission shall establish such
28 expedited practices, procedures and policies as necessary to
29 facilitate and accomplish repayment of the loans. Nothing in
30 this act shall be construed as to require approval of rate

1 increases greater than that necessary to accomplish the
2 repayment of loans made pursuant to this act.

3 Section ~~14~~ 15. Transfer of Water Facilities Loan Board. ←

4 (a) Removal of members.--On the effective date of this act,
5 all existing members of the Water Facilities Loan Board are
6 removed from office.

7 (b) Board of directors to serve as Water Facilities Loan
8 Board.--For purposes of satisfying all outstanding obligations
9 of the Water Facilities Loan Board and for purposes of
10 collecting loan and interest repayments, the board established
11 in section 4 shall constitute the membership of the Water
12 Facilities Loan Board.

13 (c) Transfer of function.--All remaining rights, powers,
14 duties, obligations, liabilities, records and equipment of the
15 Water Facilities Loan Board are transferred to the authority.

16 Section ~~15~~ 16. Repeals. ←

17 (a) Absolute.--The following acts or parts of acts are
18 repealed:

19 The definitions of "community water supply system,"
20 "department," "flood control facility," "port facility,"
21 "project" and "water facility" in section 7502 and sections
22 7503, 7504(b), (d) and (e), 7506, 7510, 7511, 7512, 7513, 7514,
23 7515 and 7516 of Title 32 of the Pennsylvania Consolidated
24 Statutes (relating to forests, waters and State parks).

25 (b) Limited.--The following acts or parts of acts are
26 repealed insofar as they relate to any one of the following:

27 (1) Public improvement projects itemized in a capital
28 budget enacted prior to January 1, 1983, but not physically
29 constructed prior to the effective date of this act.

30 (2) Any project itemized in a capital budget which was

1 funded by current revenues without the use of bond
2 obligations.

3 (3) SECTIONS 1, 1.1, 2 AND 3 OF THE ACT OF AUGUST 20, ←
4 1953 (P.L.1217, NO.339), ENTITLED "AN ACT PROVIDING FOR
5 PAYMENTS BY THE COMMONWEALTH TO MUNICIPALITIES WHICH HAVE
6 EXPENDED MONEY TO ACQUIRE AND CONSTRUCT SEWAGE TREATMENT
7 PLANTS IN ACCORDANCE WITH THE CLEAN STREAMS PROGRAM AND THE
8 ACT, APPROVED THE TWENTY-SECOND DAY OF JUNE, ONE THOUSAND
9 NINE HUNDRED THIRTY-SEVEN (PAMPHLET LAWS 1987), AND MAKING AN
10 APPROPRIATION," AS APPLIED TO PROJECTS FUNDED UNDER THE
11 PROVISIONS OF THIS ACT.

12 (c) Inconsistent.--All other acts and parts of acts are
13 repealed insofar as they are inconsistent with this act.

14 Section ~~16~~ 17. Severability. ←

15 The provisions of this act are severable. If any provision of
16 this act or its application to any person or circumstance is
17 held invalid, the invalidity shall not affect other provisions
18 or applications of this act which can be given effect without
19 the invalid provision or application.

20 Section ~~17~~ 18. Effective date. ←

21 This act shall take effect in 90 days.