

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2690 Session of
2004

INTRODUCED BY WEBER, ADOLPH, BROWNE, DALLY, GINGRICH, HERMAN,
McCALL, McILHINNEY, O'NEILL, PISTELLA, READSHAW, ROSS,
RUBLEY, STURLA, YUDICHAK, S. H. SMITH, DALEY, WATSON, LEWIS,
TIGUE, YOUNGBLOOD, BOYD, SOLOBAY, CRAHALLA, BUNT, FLICK,
GEIST, S. E. CORNELL, THOMAS, ARGALL AND SCAVELLO,
JUNE 9, 2004

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 23, 2004

AN ACT

1 Amending Titles 12 (Commerce and Trade) and 64 (Public
2 Authorities and Quasi-Public Corporations) of the
3 Pennsylvania Consolidated Statutes, providing for water
4 supply and wastewater infrastructure capitalization;
5 AUTHORIZING DEBT; defining "investor-owned water or
6 wastewater enterprise"; and providing for Water Supply and
7 Wastewater Infrastructure Program. <—

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

10 Section 1. Title 12 of the Pennsylvania Consolidated
11 Statutes is amended by adding a chapter to read:

CHAPTER 39

WATER SUPPLY AND WASTEWATER

INFRASTRUCTURE CAPITALIZATION

15 Sec.

16 3901. Scope of chapter.

17 3902. Definitions.

18 3903. Establishment.

1 3904. Award of grants.

2 3905. Award and administration of loans.

3 3906. Funds.

4 3907. COMMONWEALTH INDEBTEDNESS.

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5 § 3901. Scope of chapter.

6 This chapter relates to the Water Supply and Wastewater
7 Infrastructure Capitalization Program.

8 § 3902. Definitions.

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

12 "Applicant." A municipality, a municipal authority,
13 industrial development corporation or an investor-owned water or
14 wastewater enterprise that submits an application under 64
15 Pa.C.S. § 1558 (relating to Water Supply and Wastewater
16 Infrastructure Program).

17 "Authority." The Commonwealth Financing Authority
18 established under 64 Pa.C.S. § 1511 (relating to authority).

19 "Cost of a project." Any of the following:

20 (1) Costs and expenses of acquisition of interests in
21 land, infrastructure, buildings, structures, equipment,
22 furnishings, fixtures and other tangible property which
23 comprises the project.

24 (2) Costs and expenses of construction, reconstruction,
25 erection, equipping, expansion, improvement, installation,
26 rehabilitation, renovation or repair of infrastructure,
27 buildings, structures, equipment and fixtures which comprise
28 the project.

29 (3) Costs and expenses of demolishing, removing or
30 relocating buildings or structures on lands acquired or to be

1 acquired.

2 (4) Costs and expenses of preparing land for
3 development.

4 (5) Costs and expenses of engineering services,
5 financial services, accounting services, legal services,
6 plans, specifications, studies and surveys necessary or
7 incidental to determining the feasibility or practicability
8 of the project.

9 "FUND." THE WATER SUPPLY AND WASTEWATER TREATMENT FUND <—
10 ESTABLISHED IN SECTION 3906(B) (RELATING TO FUNDS).

11 "Industrial development corporation." An entity certified as
12 an industrial development agency by the Pennsylvania Industrial
13 Development Authority Board under the act of May 17, 1956 (1955
14 P.L.1609, No.537), known as the Pennsylvania Industrial
15 Development Authority Act.

16 "Investor-owned water or wastewater enterprise." A nonpublic
17 entity which supplies water or provides wastewater services to
18 the public for a fee.

19 "Municipal authority." A public authority created under 53
20 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the
21 former act of May 2, 1945 (P.L.382, No.164), known as the
22 Municipality Authorities Act of 1945, which supplies water or
23 provides wastewater services to the public for a fee.

24 "NUTRIENT REDUCTION TECHNOLOGY." NUTRIENT REDUCTION <—
25 TECHNOLOGY (NRT) IS WASTEWATER TREATMENT TECHNOLOGY THAT REDUCES
26 NUTRIENTS (NITROGEN AND PHOSPHOROUS) AS PART OF A TREATMENT OR
27 RECYCLING SYSTEM. THE TECHNOLOGY INCLUDES ALL OF THE FOLLOWING:

28 (1) BIOLOGICAL, CHEMICAL AND PHYSICAL WASTEWATER
29 TREATMENT.

30 (2) SYSTEM AND OPERATIONAL MODIFICATIONS.

1 "Project." An activity approved for a grant or loan under 64
2 Pa.C.S. § 1558 (relating to Water Supply and Wastewater
3 Infrastructure Program).

4 "SINKING FUND." THE WATER SUPPLY AND WASTEWATER TREATMENT <—
5 SINKING FUND ESTABLISHED IN SECTION 3906(C) (RELATING TO FUNDS).
6 § 3903. Establishment.

7 There is established within the department a program to be
8 known as the Water Supply and Wastewater Infrastructure
9 Capitalization Program. The program shall finance single-year or
10 multiyear grants to municipalities and municipal authorities and
11 loans to municipalities, municipal authorities, industrial
12 development corporations and investor-owned water or wastewater
13 enterprises or projects which are approved by the Commonwealth
14 Financing Authority and which, when completed, construct, expand
15 or improve water and wastewater infrastructure which is related
16 to economic development.

17 § 3904. Award of grants.

18 Upon being notified by the authority that a grant has been
19 approved under 64 Pa.C.S. § 1558(c) (relating to Water Supply
20 and Wastewater Infrastructure Program) for a municipality or
21 municipal authority, the department shall, within 45 days of
22 receiving notice, enter into a contract with the municipality or
23 municipal authority. The contract shall be for the amount
24 approved by the authority. Upon entering into a contract with
25 the municipality or municipal authority, the department shall
26 award the grant for the amount specified in the contract.

27 § 3905. Award and administration of loans.

28 (a) Award.--

29 (1) Upon being notified that a loan has been approved
30 under 64 Pa.C.S. § 1558(c) (relating to Water Supply and

Wastewater Infrastructure Program) for an applicant, the department shall, within 45 days of receiving notice, enter into a contract with the applicant. The contract shall be for the amount approved and shall specify the terms of the loan in accordance with all of the following:

(i) A loan shall be at an interest rate not to exceed 1%.

(ii) A loan shall be for a term not to exceed 20 years.

(2) Upon entering into a contract with the applicant, the department shall award the loan for the amount specified in the contract.

(b) Administration.--Loans made under this section shall be administered by the department. Loan payments received by the department for a loan awarded under this section shall be deposited in the General Fund.

§ 3906. Funds.

(A) PROCEEDS.--Proceeds of the borrowing authorized by the electors pursuant to the act of February 12, 2004 (P.L.72, No.10), known as the Water and Wastewater Treatment Project Bond Act, shall be used by the department in funding grants and loans awarded under this chapter.

(B) FUND.--

(1) THE WATER SUPPLY AND WASTEWATER TREATMENT FUND IS ESTABLISHED AS A RESTRICTED FUND IN THE STATE TREASURY.

(2) THE FUND SHALL BE USED TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

(C) SINKING FUND.--THE WATER SUPPLY AND WASTEWATER TREATMENT SINKING FUND IS ESTABLISHED TO RETIRE DEBT UNDER SECTION 3907(D) (RELATING TO COMMONWEALTH INDEBTEDNESS).

§ 3907. COMMONWEALTH INDEBTEDNESS.

(A) BORROWING AUTHORIZED.--

(1) PURSUANT TO THE REFERENDUM UNDER THE ACT OF FEBRUARY 12, 2004 (P.L.72, NO.10), KNOWN AS THE WATER AND WASTEWATER TREATMENT PROJECT BOND ACT, AND UNDER SECTION 7(A)(3) OF ARTICLE VIII OF THE CONSTITUTION OF PENNSYLVANIA, THE ISSUING OFFICIALS ARE AUTHORIZED AND DIRECTED TO BORROW OVER A THREE-YEAR PERIOD, ON THE CREDIT OF THE COMMONWEALTH, MONEY NOT EXCEEDING IN THE AGGREGATE THE SUM OF \$250,000,000, NOT INCLUDING MONEY BORROWED TO REFUND OUTSTANDING BONDS, NOTES OR REPLACEMENT NOTES, AS MAY BE FOUND NECESSARY TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

(2) AS EVIDENCE OF THE INDEBTEDNESS AUTHORIZED IN THIS CHAPTER, GENERAL OBLIGATION BONDS OF THE COMMONWEALTH SHALL BE ISSUED TO PROVIDE MONEY NECESSARY TO CARRY OUT THE PURPOSES OF THIS CHAPTER. THE ISSUING OFFICIALS SHALL DIRECT THE FOLLOWING:

(I) TOTAL AMOUNT.

(II) FORM.

(III) DENOMINATION.

(IV) TERMS AND CONDITIONS OF:

(A) ISSUE;

(B) REDEMPTION AND MATURITY;

(C) RATE OF INTEREST; AND

(D) TIME OF PAYMENT OF INTEREST, EXCEPT THAT THE LATEST STATED MATURITY DATE SHALL NOT EXCEED 20 YEARS FROM THE DATE OF THE FIRST OBLIGATION ISSUED TO EVIDENCE THE DEBT.

(3) ALL BONDS AND NOTES ISSUED UNDER THE AUTHORITY OF THIS CHAPTER SHALL BEAR FACSIMILE SIGNATURES OF THE ISSUING

1 OFFICIALS AND A FACSIMILE OF THE GREAT SEAL OF THE
2 COMMONWEALTH AND SHALL BE COUNTERSIGNED BY AN AUTHORIZED
3 OFFICER OF AN AUTHORIZED LOAN AND TRANSFER AGENT OF THE
4 COMMONWEALTH.

5 (4) ALL BONDS AND NOTES ISSUED IN ACCORDANCE WITH THIS
6 CHAPTER SHALL BE DIRECT OBLIGATIONS OF THE COMMONWEALTH. THE
7 FULL FAITH AND CREDIT OF THE COMMONWEALTH ARE PLEDGED FOR THE
8 PAYMENT OF THE INTEREST ON THE BONDS AND NOTES, AS IT BECOMES
9 DUE, AND THE PAYMENT OF THE PRINCIPAL AT MATURITY. THE
10 PRINCIPAL OF AND INTEREST ON THE BONDS AND NOTES SHALL BE
11 PAYABLE IN LAWFUL MONEY OF THE UNITED STATES.

12 (5) ALL BONDS AND NOTES ISSUED UNDER THIS CHAPTER SHALL
13 BE:

14 (I) EXEMPT FROM TAXATION FOR STATE AND LOCAL
15 PURPOSES; AND

16 (II) ELIGIBLE FOR TAX-EXEMPT BOND FUNDING UNDER
17 EXISTING FEDERAL LAW.

18 (6) THE BONDS MAY BE ISSUED AS COUPON BONDS OR
19 REGISTERED AS TO BOTH PRINCIPAL AND INTEREST AS THE ISSUING
20 OFFICIALS DETERMINE. IF INTEREST COUPONS ARE ATTACHED, THEY
21 SHALL CONTAIN THE FACSIMILE SIGNATURE OF THE STATE TREASURER.

22 (7) THE ISSUING OFFICIALS SHALL PROVIDE FOR THE
23 AMORTIZATION OF THE BONDS IN SUBSTANTIAL AND REGULAR AMOUNTS
24 OVER THE TERM OF THE DEBT SO THAT THE BONDS OF EACH ISSUE
25 SHALL MATURE WITHIN A PERIOD NOT TO EXCEED THE APPROPRIATE
26 AMORTIZATION PERIOD AS SPECIFIED BY THE ISSUING OFFICIALS,
27 BUT IN NO CASE IN EXCESS OF 20 YEARS. THE FIRST RETIREMENT OF
28 PRINCIPAL SHALL BE STATED TO MATURE PRIOR TO THE EXPIRATION
29 OF A PERIOD OF TIME EQUAL TO ONE-TENTH OF THE TIME FROM THE
30 DATE OF THE FIRST OBLIGATION ISSUED TO EVIDENCE THE DEBT TO

1 THE DATE OF THE EXPIRATION OF THE TERM OF THE DEBT.

2 RETIREMENTS OF PRINCIPAL SHALL BE REGULAR AND SUBSTANTIAL IF
3 MADE IN ANNUAL OR SEMIANNUAL AMOUNTS, WHETHER BY STATED
4 SERIAL MATURITIES OR BY MANDATORY SINKING FUND RETIREMENTS.

5 (8) THE ISSUING OFFICIALS ARE AUTHORIZED TO PROVIDE BY
6 RESOLUTION FOR THE ISSUANCE OF REFUNDING BONDS FOR THE
7 PURPOSE OF REFUNDING DEBT ISSUED UNDER THIS CHAPTER AND THEN
8 OUTSTANDING, EITHER BY VOLUNTARY EXCHANGE WITH THE HOLDERS OF
9 THE OUTSTANDING DEBT OR BY PROVIDING FUNDS TO REDEEM AND
10 RETIRE THE OUTSTANDING DEBT WITH ACCRUED INTEREST, ANY
11 PREMIUM PAYABLE ON THEM AND THE COSTS OF ISSUANCE AND
12 RETIREMENT OF THE DEBT, AT MATURITY OR AT ANY CALL DATE. THE
13 ISSUANCE OF THE REFUNDING BONDS, THE MATURITIES AND OTHER
14 DETAILS OF THE REFUNDING BONDS, THE RIGHTS OF THE HOLDERS OF
15 THE REFUNDING BONDS AND THE DUTIES OF THE ISSUING OFFICIALS
16 IN RESPECT TO THE REFUNDING BONDS SHALL BE GOVERNED BY THE
17 APPLICABLE PROVISIONS OF THIS CHAPTER. REFUNDING BONDS, WHICH
18 ARE NOT SUBJECT TO THE AGGREGATE LIMITATION OF \$250,000,000
19 OF DEBT TO BE ISSUED PURSUANT TO THIS CHAPTER, MAY BE ISSUED
20 BY THE ISSUING OFFICIALS TO REFUND DEBT ORIGINALLY ISSUED OR
21 TO REFUND BONDS PREVIOUSLY ISSUED FOR REFUNDING PURPOSES.

22 (9) IF AN ACTION IS TO BE TAKEN OR A DECISION IS TO BE
23 MADE BY THE ISSUING OFFICIALS AND THE THREE OFFICERS ARE NOT
24 ABLE UNANIMOUSLY TO AGREE, THE ACTION OR DECISION OF THE
25 GOVERNOR AND EITHER THE AUDITOR GENERAL OR THE STATE
26 TREASURER SHALL BE BINDING AND FINAL.

27 (B) SALE OF BONDS.--

28 (1) IF BONDS ARE ISSUED, THE FOLLOWING APPLY:

29 (I) BONDS SHALL BE OFFERED FOR SALE AT NOT LESS THAN
30 98% OF THE PRINCIPAL AMOUNT AND ACCRUED INTEREST.

(II) BONDS SHALL BE SOLD BY THE ISSUING OFFICIALS TO THE HIGHEST AND BEST BIDDER AFTER PUBLIC ADVERTISEMENT ON THE TERMS AND CONDITIONS AND UPON OPEN COMPETITIVE BIDDING AS THE ISSUING OFFICIALS DIRECT. THE MANNER AND CHARACTER OF THE ADVERTISEMENT AND THE TIME OF ADVERTISING SHALL BE PRESCRIBED BY THE ISSUING OFFICIALS.

(III) NO COMMISSION SHALL BE ALLOWED OR PAID FOR THE SALE OF ANY BONDS ISSUED UNDER THE AUTHORITY OF THIS CHAPTER.

(2) ANY PORTION OF ANY BOND ISSUE OFFERED AND NOT SOLD OR SUBSCRIBED FOR AT PUBLIC SALE MAY BE DISPOSED OF BY PRIVATE SALE BY THE ISSUING OFFICIALS IN A MANNER AND AT A PRICE, NOT LESS THAN 98% OF THE PRINCIPAL AMOUNT AND ACCRUED INTEREST, AS THE GOVERNOR DIRECTS. NO COMMISSION SHALL BE ALLOWED OR PAID FOR THE SALE OF ANY BONDS ISSUED UNDER THE AUTHORITY OF THIS CHAPTER.

(3) THE BONDS OF EACH ISSUE SHALL CONSTITUTE A SEPARATE SERIES TO BE DESIGNATED BY THE ISSUING OFFICIALS OR MAY BE COMBINED FOR SALE AS ONE SERIES WITH OTHER GENERAL OBLIGATION BONDS OF THE COMMONWEALTH.

(4) UNTIL PERMANENT BONDS CAN BE PREPARED, THE ISSUING OFFICIALS MAY ISSUE, IN LIEU OF PERMANENT BONDS, TEMPORARY BONDS IN A FORM AND WITH PRIVILEGES AS TO REGISTRATION AND EXCHANGE FOR PERMANENT BONDS AS DETERMINED BY THE ISSUING OFFICIALS.

(5) THE PROCEEDS REALIZED FROM THE SALE OF BONDS AND NOTES, EXCEPT REFUNDING BONDS AND REPLACEMENT NOTES, UNDER THIS CHAPTER SHALL BE PAID INTO THE FUND AND ARE SPECIFICALLY DEDICATED TO THE PURPOSES OF THIS CHAPTER. THE PROCEEDS SHALL BE PAID BY THE STATE TREASURER PERIODICALLY TO THE DEPARTMENT

1 AT TIMES AND IN AMOUNTS AS NECESSARY TO SATISFY THE FUNDING
2 NEEDS OF THE DEPARTMENT UNDER THIS CHAPTER. THE PROCEEDS OF
3 THE SALE OF REFUNDING BONDS AND REPLACEMENT NOTES SHALL BE
4 PAID TO THE STATE TREASURER AND APPLIED TO THE PAYMENT OF
5 PRINCIPAL, ANY ACCRUED INTEREST AND PREMIUM, AND COST OF
6 REDEMPTION, OF THE BONDS AND NOTES FOR WHICH THE OBLIGATIONS
7 HAVE BEEN ISSUED.

8 (6) PENDING THEIR APPLICATION FOR THE PURPOSES
9 AUTHORIZED, MONEY HELD OR DEPOSITED BY THE STATE TREASURER
10 MAY BE INVESTED OR REINVESTED AS ARE OTHER FUNDS IN THE
11 CUSTODY OF THE STATE TREASURER IN THE MANNER PROVIDED BY LAW.
12 ALL EARNINGS RECEIVED FROM THE INVESTMENT OR DEPOSIT OF THE
13 FUNDS SHALL BE PAID INTO THE STATE TREASURY TO THE CREDIT OF
14 THE FUND.

15 (7) THE AUDITOR GENERAL SHALL PREPARE THE NECESSARY
16 REGISTRY BOOK TO BE KEPT IN THE OFFICE OF THE AUTHORIZED LOAN
17 AND TRANSFER AGENT OF THE COMMONWEALTH FOR THE REGISTRATION
18 OF BONDS, AT THE REQUEST OF OWNERS OF THE BONDS, ACCORDING TO
19 THE TERMS AND CONDITIONS OF ISSUE DIRECTED BY THE ISSUING
20 OFFICIALS.

21 (8) THERE IS HEREBY APPROPRIATED TO THE STATE TREASURER
22 FROM THE FUND AS MUCH MONEY AS MAY BE NECESSARY FOR ALL COSTS
23 AND EXPENSES IN CONNECTION WITH THE ISSUE OF AND SALE AND
24 REGISTRATION OF THE BONDS AND NOTES IN CONNECTION WITH THIS
25 CHAPTER AND THE PAYMENT OF INTEREST ARBITRAGE REBATES OR
26 PROCEEDS OF THE BONDS AND NOTES.

27 (C) TEMPORARY FINANCING AUTHORIZATION.--

28 (1) PENDING THE ISSUANCE OF BONDS OF THE COMMONWEALTH AS
29 AUTHORIZED, THE ISSUING OFFICIALS ARE AUTHORIZED, IN
30 ACCORDANCE WITH THIS CHAPTER AND ON THE CREDIT OF THE

1 COMMONWEALTH, TO MAKE TEMPORARY BORROWINGS NOT TO EXCEED ONE
2 YEAR IN ANTICIPATION OF THE ISSUE OF BONDS IN ORDER TO
3 PROVIDE FUNDS IN AMOUNTS AS DEEMED ADVISABLE PRIOR TO THE
4 ISSUE OF BONDS. IN ORDER TO PROVIDE FOR AND IN CONNECTION
5 WITH ANY TEMPORARY BORROWING, THE ISSUING OFFICIALS ARE
6 AUTHORIZED IN THE NAME AND ON BEHALF OF THE COMMONWEALTH TO
7 ENTER INTO PURCHASE, LOAN OR CREDIT AGREEMENT OR OTHER
8 AGREEMENT WITH ANY BANK OR TRUST COMPANY, OTHER LENDING
9 INSTITUTION, INVESTMENT BANKING FIRM OR PERSON IN THE UNITED
10 STATES HAVING POWER TO ENTER INTO THE AGREEMENT. THE
11 AGREEMENT MAY CONTAIN PROVISIONS NOT INCONSISTENT WITH THIS
12 CHAPTER AS AUTHORIZED BY THE ISSUING OFFICIALS.

13 (2) TEMPORARY BORROWINGS MADE UNDER THIS SUBSECTION
14 SHALL BE EVIDENCED BY NOTES OF THE COMMONWEALTH. THE ISSUING
15 OFFICIALS SHALL AUTHORIZE AND DIRECT, IN ACCORDANCE WITH THIS
16 CHAPTER, ALL OF THE FOLLOWING:

17 (I) AMOUNT, NOT EXCEEDING IN THE AGGREGATE THE
18 APPLICABLE STATUTORY AND CONSTITUTIONAL DEBT LIMITATION.

19 (II) FORM.

20 (III) DENOMINATION.

21 (IV) TERMS AND CONDITIONS OF:

22 (A) SALE AND ISSUE;

23 (B) PREPAYMENT OR REDEMPTION AND MATURITY;

24 (C) RATE OF INTEREST; AND

25 (D) TIME OF PAYMENT OF INTEREST.

26 (3) AUTHORIZATION AND DIRECTION UNDER PARAGRAPH (2) MAY
27 PROVIDE FOR THE SUBSEQUENT ISSUANCE OF REPLACEMENT NOTES TO
28 REFUND OUTSTANDING NOTES OR REPLACEMENT NOTES. REPLACEMENT
29 NOTES SHALL EVIDENCE BORROWING AND MAY SPECIFY OTHER TERMS
30 AND CONDITIONS WITH RESPECT TO THE NOTES AND REPLACEMENT

1 NOTES AUTHORIZED FOR ISSUANCE AS THE ISSUING OFFICIALS
2 DETERMINE AND DIRECT.

3 (4) IF THE AUTHORIZATION AND DIRECTION OF THE ISSUING
4 OFFICIALS PROVIDE FOR THE ISSUANCE OF REPLACEMENT NOTES, THE
5 ISSUING OFFICIALS ARE AUTHORIZED IN THE NAME AND ON BEHALF OF
6 THE COMMONWEALTH TO ISSUE, ENTER INTO OR AUTHORIZE AND DIRECT
7 THE STATE TREASURER TO ENTER INTO AN AGREEMENT WITH ANY BANK,
8 TRUST COMPANY, INVESTMENT BANKING FIRM OR OTHER INSTITUTION
9 OR PERSON IN THE UNITED STATES HAVING THE POWER TO ENTER INTO
10 THE AGREEMENT:

11 (I) TO PURCHASE OR UNDERWRITE AN ISSUE OR SERIES OF
12 ISSUES OF NOTES.

13 (II) TO CREDIT; TO ENTER INTO ANY PURCHASE, LOAN OR
14 CREDIT AGREEMENT; TO DRAW MONEY PURSUANT TO THE AGREEMENT
15 ON THE TERMS AND CONDITIONS SET FORTH IN THE AGREEMENT;
16 AND TO ISSUE NOTES AS EVIDENCE OF BORROWINGS MADE UNDER
17 THE AGREEMENT.

18 (III) TO APPOINT AN ISSUING AND PAYING AGENT WITH
19 RESPECT TO NOTES.

20 (IV) TO DO ALL ACTS NECESSARY OR APPROPRIATE TO
21 PROVIDE FOR THE PAYMENT, WHEN DUE, OF THE INTEREST ON AND
22 THE PRINCIPAL OF THE NOTES.

23 (5) AN AGREEMENT UNDER PARAGRAPH (4) MAY PROVIDE FOR THE
24 COMPENSATION OF PURCHASERS OR UNDERWRITERS OF NOTES OR
25 REPLACEMENT NOTES BY DISCOUNTING THE PURCHASE PRICE OF THE
26 NOTES OR BY PAYMENT OF A FIXED FEE OR COMMISSION AT THE TIME
27 OF THEIR ISSUANCE. ALL OTHER COSTS AND EXPENSES, INCLUDING
28 FEES FOR AGREEMENTS RELATED TO THE NOTES, ISSUING AND PAYING
29 AGENT COSTS AND COSTS AND EXPENSES OF ISSUANCE, MAY BE PAID
30 FROM THE PROCEEDS OF THE NOTES.

1 (6) IF THE AUTHORIZATION AND DIRECTION OF THE ISSUING
2 OFFICIALS PROVIDE FOR THE ISSUANCE OF REPLACEMENT NOTES, THE
3 STATE TREASURER, AT OR PRIOR TO THE TIME OF DELIVERY OF THESE
4 NOTES OR REPLACEMENT NOTES, SHALL, SUBJECT TO THE
5 AUTHORIZATION AND DIRECTION OF THE ISSUING OFFICIALS, DO ALL
6 OF THE FOLLOWING:

7 (I) DETERMINE THE:

8 (A) PRINCIPAL AMOUNTS;

9 (B) DATES OF ISSUE;

10 (C) INTEREST RATE OR PROCEDURE FOR ESTABLISHING
11 INTEREST RATES;

12 (D) RATES OF DISCOUNT;

13 (E) DENOMINATION; AND

14 (F) OTHER TERMS AND CONDITIONS RELATING TO
15 ISSUANCE.

16 (II) PERFORM ALL ACTS AND THINGS NECESSARY TO PAY
17 OR CAUSE TO BE PAID, WHEN DUE, ALL PRINCIPAL OF AND
18 INTEREST ON THE NOTES BEING REFUNDED BY REPLACEMENT NOTES
19 AND TO ASSURE THAT THE PAYMENT MAY DRAW UPON ANY MONEY
20 AVAILABLE FOR THAT PURPOSE PURSUANT TO A PURCHASE, LOAN
21 OR CREDIT AGREEMENT ESTABLISHED WITH RESPECT TO THE
22 NOTES.

23 (7) OUTSTANDING NOTES EVIDENCING THE BORROWINGS MAY BE
24 FUNDED AND RETIRED BY THE ISSUANCE AND SALE OF THE BONDS OF
25 THE COMMONWEALTH AS AUTHORIZED IN THIS PARAGRAPH. THE
26 REFUNDING BONDS SHALL BE ISSUED AND SOLD NOT LATER THAN A
27 DATE ONE YEAR AFTER THE DATE OF ISSUANCE OF THE FIRST NOTES
28 EVIDENCING THE BORROWING TO THE EXTENT THAT PAYMENT OF THE
29 NOTES HAS NOT OTHERWISE BEEN MADE OR PROVIDED FOR BY SOURCES
30 OTHER THAN PROCEEDS OF REPLACEMENT NOTES.

1 (8) THE PROCEEDS OF ALL TEMPORARY BORROWING SHALL BE
2 PAID TO THE STATE TREASURER TO BE HELD AND DISPOSED OF IN
3 ACCORDANCE WITH THIS CHAPTER.

4 (D) DEBT RETIREMENT.--

5 (1) ALL BONDS ISSUED UNDER THE AUTHORITY OF THIS CHAPTER
6 SHALL BE REDEEMED AT MATURITY, TOGETHER WITH ALL INTEREST
7 DUE. PRINCIPAL AND INTEREST PAYMENTS SHALL BE PAID FROM THE
8 SINKING FUND. FOR THE SPECIFIC PURPOSE OF REDEEMING THE BONDS
9 AT MATURITY AND PAYING ALL INTEREST ON THE BONDS IN
10 ACCORDANCE WITH THE INFORMATION RECEIVED FROM THE GOVERNOR,
11 THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY TO THE SINKING
12 FUND FOR THE PAYMENT OF INTEREST ON THE BONDS AND NOTES AND
13 THE PRINCIPAL OF THE BONDS AND NOTES AT MATURITY. ALL MONEY
14 PAID INTO THE SINKING FUND AND ALL OF THE MONEY NOT NECESSARY
15 TO PAY ACCRUING INTEREST SHALL BE INVESTED BY THE STATE
16 TREASURER IN SECURITIES AS ARE PROVIDED BY LAW FOR THE
17 INVESTMENT OF THE SINKING FUNDS OF THE COMMONWEALTH.

18 (2) THE STATE TREASURER SHALL DETERMINE AND REPORT TO
19 THE SECRETARY OF THE BUDGET BY NOVEMBER 1 OF EACH YEAR THE
20 AMOUNT OF MONEY NECESSARY FOR THE PAYMENT OF ANY INTEREST ON
21 OUTSTANDING OBLIGATIONS AND THE PRINCIPAL OF THE OBLIGATIONS
22 FOR THE FOLLOWING FISCAL YEAR AND THE TIMES AND AMOUNTS OF
23 THE PAYMENTS. THE GOVERNOR SHALL INCLUDE IN EVERY BUDGET
24 SUBMITTED TO THE GENERAL ASSEMBLY FULL INFORMATION RELATING
25 TO THE ISSUANCE OF BONDS AND NOTES UNDER THIS CHAPTER AND THE
26 STATUS OF THE FUND AND THE SINKING FUND FOR THE PAYMENT OF
27 INTEREST ON THE BONDS AND NOTES AND THE PRINCIPAL OF THE
28 BONDS AND NOTES AT MATURITY.

29 (3) THE GENERAL ASSEMBLY SHALL APPROPRIATE FOR DEPOSIT
30 INTO THE SINKING FUND AN AMOUNT EQUAL TO THE SUM NECESSARY TO

1 MEET REPAYMENT OBLIGATIONS FOR PRINCIPAL AND INTEREST.

2 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM "ISSUING
3 OFFICIALS" MEANS THE GOVERNOR, THE AUDITOR GENERAL AND THE STATE
4 TREASURER.

5 Section 2. Section 1504 of Title 64,~~added April 1, 2004~~ <—
6 ~~(P.L.163, No.22)~~, is amended by adding a definition to read:
7 § 1504. Definitions.

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

11 * * *

12 "Investor-owned water or wastewater enterprise." A nonpublic
13 entity which supplies water or provides wastewater services to
14 the public for a fee.

15 * * *

16 SECTION 3. SECTION 1543(C) OF TITLE 64, ADDED APRIL 1, 2004 <—
17 (P.L.163, NO.22), IS AMENDED TO READ:
18 § 1543. INDEBTEDNESS.

19 * * *

20 (C) FISCAL YEAR LIMITATIONS.--

21 (1) EXCEPT AS PROVIDED IN SUBSECTION (D) AND PARAGRAPHS
22 (2), (3) AND (4), THE AGGREGATE AMOUNT OF INDEBTEDNESS
23 INCURRED BY THE AUTHORITY, INCLUDING THROUGH THE ISSUANCE OF
24 BONDS, MAY NOT EXCEED \$250,000,000 REDUCED BY THE AGGREGATE
25 AMOUNT OF COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF
26 THE ACT OF FEBRUARY 12, 2004 (P.L.72, NO.10), KNOWN AS THE
27 WATER AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 64
28 PA.C.S. CH. 39 (RELATING TO WATER SUPPLY AND WASTEWATER
29 INFRASTRUCTURE CAPITALIZATION).

30 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) AND PARAGRAPHS

(3) AND (4) AND UPON ADOPTION OF A RESOLUTION UNDER
SUBSECTION (F)(1), THE AGGREGATE AMOUNT OF INDEBTEDNESS
INCURRED BY THE AUTHORITY, INCLUDING THROUGH THE ISSUANCE OF
BONDS, MAY NOT EXCEED \$500,000,000 REDUCED BY THE AGGREGATE
AMOUNT OF COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF
THE WATER AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 64
PA.C.S. CH. 39.

(3) EXCEPT AS PROVIDED IN SUBSECTION (D) AND PARAGRAPH
(4) AND UPON ADOPTION OF A RESOLUTION UNDER SUBSECTION
(F)(2), THE AGGREGATE AMOUNT OF INDEBTEDNESS INCURRED BY THE
AUTHORITY, INCLUDING THROUGH THE ISSUANCE OF BONDS, MAY NOT
EXCEED \$750,000,000 REDUCED BY THE AGGREGATE AMOUNT OF
COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF THE WATER
AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 64 PA.C.S.
CH. 39.

(4) EXCEPT AS PROVIDED IN SUBSECTION (D) AND UPON
ADOPTION OF A RESOLUTION UNDER SUBSECTION (F)(3), THE
AGGREGATE AMOUNT OF INDEBTEDNESS INCURRED BY THE AUTHORITY,
INCLUDING THROUGH THE ISSUANCE OF BONDS, MAY NOT EXCEED
\$1,000,000,000 REDUCED BY THE AGGREGATE AMOUNT OF
COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF THE WATER
AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 64 PA.C.S.
CH. 39.

* * *

Section 3 4. Title 64 is amended by adding a section to
read:

§ 1558. Water Supply and Wastewater Infrastructure Program.

(a) Establishment.--There is established a program to be
known as the Water Supply and Wastewater Infrastructure Program.
The program shall provide financial assistance in the form of

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single-year or multiyear grants to municipalities and municipal authorities and in the form of loans to municipalities, municipal authorities, industrial development corporations and investor-owned water or wastewater enterprises for projects which, when completed, construct, expand or improve water and wastewater infrastructure which is related to economic development.

(b) Application.--A municipality, a municipal authority, an industrial development corporation or an investor-owned water or wastewater enterprise may submit an application to the authority requesting financial assistance for a project. The application must be on the form required by the board and must include or demonstrate all of the following:

(1) The name and address of the applicant.

(2) A statement of the type and amount of financial assistance sought. If the applicant is requesting financial assistance in the form of a grant, the request may not exceed 75% of the cost of the project.

(3) A statement of the project, including a detailed statement of the cost of the project and approval of the governing body of the municipality in which the project will be located.

(4) A financial commitment from a responsible source for any cost of the project in excess of the amount requested. If the applicant is requesting financial assistance in the form of a grant from the department, the financial commitment may not be in the form of a grant from a Commonwealth agency.

(5) A firm commitment from the project user to use the project upon completion.

(6) Proof that the applicant has secured planning and

1 permit approvals for the project from the Department of
2 Environmental Protection. THE PROJECT MUST BE GENERALLY <—
3 CONSISTENT WITH APPLICABLE MUNICIPAL PLANS UNDER THE ACT OF
4 JANUARY 24, 1966 (1965 P.L.1535, NO.537), KNOWN AS THE
5 PENNSYLVANIA SEWAGE FACILITIES ACT, AND COUNTY AND LOCAL
6 COMPREHENSIVE PLANS.

7 (7) Documentation that the project meets at least one of
8 the following criteria:

9 (i) The project will repair or rehabilitate existing
10 sewer and water systems that are unsafe or unreliable and
11 that threaten public health and water quality.

12 (ii) The project will eliminate existing combined
13 sewer overflow and sanitary sewer overflow problems while
14 ensuring that all combined and sanitary sewage discharges
15 receive at least secondary sewage treatment.

16 (iii) The project will provide support for
17 alternative approaches to address combined sewer overflow
18 and sanitary sewer overflow problems, including
19 distributed storm water and decentralized wastewater
20 treatment.

21 (iv) The project will repair, rehabilitate or
22 otherwise use in-place surplus capacity for economic
23 development in existing communities that are currently
24 served by existing sewer and water systems.

25 (v) The project will construct sewer or water
26 ~~systems~~ INFRASTRUCTURE where there are compelling public <—
27 health OR ENVIRONMENTAL issues or an economic development <—
28 project that REDEVELOPS, REUSES OR REVITALIZES PREVIOUSLY <—
29 DEVELOPED LAND AND can only be resolved by constructing
30 such ~~systems~~ INFRASTRUCTURE. Such systems must be <—

1 generally consistent with applicable municipal plans
2 under the act of January 24, 1966 (1965 P.L.1535, <—
3 No.537), known as the Pennsylvania Sewage Facilities Act,
4 and county and local comprehensive plans.

5 (VI) THE PROJECT WILL RESULT IN THE DESIGN, <—
6 INSTALLATION AND OPERATION OF NUTRIENT REDUCTION
7 TECHNOLOGY AT MUNICIPAL WASTEWATER TREATMENT PLANTS THAT
8 CONTRIBUTE TO THE IMPAIRMENT OF LOCAL OR DOWNSTREAM WATER
9 QUALITY OR IMPACT LIVING RESOURCES OR PUBLIC HEALTH.

10 (8) Any other information required by the board.

11 (c) Review and approval of grant applications.--

12 (1) If an applicant is requesting financial assistance
13 in the form of a grant, the authority, in conjunction with
14 the Department of Environmental Protection, shall review the
15 application to determine all of the following:

16 (i) That the applicant is not an investor-owned
17 water or wastewater enterprise.

18 (ii) If the project is related to economic
19 development and meets at least one of the criteria
20 identified in subsection (b)(7).

21 (iii) If there is a financial commitment for at
22 least 25% of the project.

23 (iv) If the source of the financial commitment is
24 from a responsible source.

25 (v) If the municipality or municipal authority is
26 firmly committed to using the project upon completion.

27 (vi) If the municipality or municipal authority has
28 secured planning and permit approvals for the project
29 from the Department of Environmental Protection. THE <—
30 PROJECT MUST BE GENERALLY CONSISTENT WITH APPLICABLE

MUNICIPAL PLANS UNDER THE PENNSYLVANIA SEWAGE FACILITIES
ACT, AND COUNTY AND LOCAL COMPREHENSIVE PLANS.

(vii) That the municipality or municipal authority
did not receive a grant or loan under section 1551
(relating to Business in Our Sites Program) for the
project.

(viii) If the municipality or municipal authority
complied with all other criteria established by this
chapter or the board.

(2) Upon being satisfied that all program requirements
have been met, the authority may approve the application in
accordance with all of the following:

(i) The grant may not exceed \$5,000,000 per project.

(ii) Grants under this program shall not exceed
\$10,000,000 in the aggregate per municipality or
municipal authority.

(iii) The aggregate amount of grants awarded under
this subsection shall not exceed \$125,000,000.

(IV) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED
TO PROHIBIT THE AWARDING OF GRANTS TO MUNICIPALITIES IN
WHICH THE WATER SUPPLY OR WASTEWATER SERVICES ARE
PROVIDED IN WHOLE OR IN PART BY INVESTOR-OWNED WATER OR
WASTEWATER ENTERPRISES.

(3) If the authority approves the application, the
authority shall notify the department of the amount approved.

(4) ANY GRANT PROVIDED FOR ECONOMIC DEVELOPMENT UNDER
THIS SECTION THAT PAYS FOR MORE THAN \$500,000 IN
INFRASTRUCTURE IMPROVEMENTS, WATER SUPPLY OR WASTEWATER
FACILITIES LOCATED ON THE SITE OF A PRIVATE FACILITY THAT HAS
OR WILL BE RECEIVING ADDITIONAL ECONOMIC DEVELOPMENT

1 ASSISTANCE OR JOB CREATION TAX CREDITS FROM THE COMMONWEALTH
2 SHALL INCLUDE A CLAWBACK PROVISION THAT ENSURES THAT IF THE
3 FACILITY IS CLOSED OR IS SOLD WITHIN FIVE YEARS AFTER THE
4 APPROVAL OF THE APPLICATION, THE COMMONWEALTH SHALL REQUEST
5 REIMBURSEMENT FOR THE SPECIFIC COST OF THAT INFRASTRUCTURE
6 AND SHALL PLACE A LIEN FOR THAT AMOUNT ON THE REAL PROPERTY
7 OF THAT FACILITY.

8 (d) Review and approval of loan applications.--

9 (1) If an applicant is requesting financial assistance
10 in the form of a loan, the department, in conjunction with
11 the Department of Environmental Protection, shall review the
12 application to determine all of the following:

13 (i) If the project is related to economic
14 development AND MEETS AT LEAST ONE OF THE CRITERIA <—
15 IDENTIFIED IN SUBSECTION (B)(7).

16 (ii) If a financial commitment exists for any cost
17 of the project in excess of the amount requested.

18 (iii) If the source of the financial commitment is
19 from a responsible source.

20 (iv) If the project user is firmly committed to
21 using the project upon completion.

22 (v) If the applicant has secured planning and permit
23 approvals for the project from the Department of
24 Environmental Protection. THE PROJECT MUST BE GENERALLY <—
25 CONSISTENT WITH APPLICABLE MUNICIPAL PLANS UNDER THE
26 PENNSYLVANIA SEWAGE FACILITIES ACT, AND COUNTY AND LOCAL
27 COMPREHENSIVE PLANS.

28 (vi) That the applicant did not receive a grant or
29 loan under section 1551 for the project.

30 (vii) If the applicant complied with all other

1 criteria established by this chapter or the board.

2 (2) Upon being satisfied that all program requirements
3 have been met, the board may approve the application in
4 accordance with all of the following:

5 (i) The loan may not exceed \$5,000,000 per project.

6 (ii) Loans under this program shall not exceed
7 \$10,000,000 in the aggregate per applicant.

8 (3) If the authority approves the application, the
9 authority shall notify the department of the amount approved.

10 Section 4 5. This act shall take effect immediately.

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