

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1401 Session of 2012

INTRODUCED BY HUGHES, YUDICHAK, FONTANA, ERICKSON, FARNESE,  
SOLOBAY, SCHWANK, WASHINGTON AND FERLO, FEBRUARY 3, 2012

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 3, 2012

AN ACT

1 Amending the act of July 9, 2008 (P.L.908, No.63), entitled "An  
2 act providing for the allocation of money in the Pennsylvania  
3 Gaming Economic Development and Tourism Fund and for funding  
4 of water or sewer projects, storm water projects, flood  
5 control projects and high hazard unsafe dam projects,"  
6 further providing for fund distribution and for Commonwealth  
7 Financing Authority; establishing a flood control and  
8 prevention loan program; providing for prohibited activities;  
9 further providing for annual reports; and making related  
10 repeals.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Sections 301, 501(a), (b), (c) and (d) and 502 of  
14 the act of July 9, 2008 (P.L.908, No.63), known as the H2O PA  
15 Act, are amended to read:

16 Section 301. Fund distribution.

17 Notwithstanding the provisions of 4 Pa.C.S. § 1407(b)  
18 (relating to Pennsylvania Gaming Economic Development and  
19 Tourism Fund), all money in the Pennsylvania Gaming Economic  
20 Development and Tourism Fund not previously allocated to  
21 projects under the act of July 25, 2007 (P.L.342, No.53), known  
22 as the Pennsylvania Gaming Economic Development and Tourism Fund

1 Capital Budget Itemization Act of 2007, and the Commonwealth's  
2 right, title and interest in Pennsylvania Gaming Economic  
3 Development and Tourism Fund receipts not encumbered by the  
4 Pennsylvania Gaming Economic Development and Tourism Fund  
5 Capital Budget Itemization Act of 2007 are hereby transferred  
6 annually to the authority. The State Treasurer is authorized and  
7 directed to enter into any agreements with the authority and  
8 establish accounts and funds, that shall not be in the State  
9 Treasury, as the authority may direct as being necessary or  
10 appropriate to effect the transfer of Pennsylvania Gaming  
11 Economic Development and Tourism Fund receipts to the authority.  
12 For a ten-year period beginning with the initial deposits under  
13 4 Pa.C.S. § 1407(c), no grants shall be distributed for any  
14 project located in a city or county of the first or second  
15 class, except for flood control and prevention projects under  
16 section 502.1. Following the allocation of all proceeds from  
17 obligations issued under section 501(a), all money other than  
18 money required for debt service shall be available for  
19 distribution under this act. No money shall be authorized or  
20 distributed for any project within a city or county of the first  
21 or second class, other than those projects described in the  
22 Pennsylvania Gaming Economic Development and Tourism Fund  
23 Capital Budget Itemization Act of 2007, until such time as an  
24 amount equal to \$750,000,000 has been authorized and distributed  
25 from the fund for projects outside of a city or county of the  
26 first or second class, except for flood control and prevention  
27 projects under section 502.1.

28 Section 501. Commonwealth Financing Authority.

29 (a) General rule.--

30 (1) The authority shall incur indebtedness in an amount

1 of up to \$800,000,000 in accordance with 64 Pa.C.S. Ch. 15  
2 (relating to Commonwealth Financing Authority). The term of  
3 indebtedness shall not exceed 30 years. Net proceeds from the  
4 sale of obligations incurred under this section shall be  
5 allocated by the board for [projects] the purposes set forth  
6 under section 502 and for the payment of all reasonable costs  
7 and expenses related to the issuance.

8 (2) Bonds issued under this chapter shall not be a debt,  
9 liability or obligation of the Commonwealth. The provisions  
10 limiting liability imposed under 64 Pa.C.S. § 1521(d)  
11 (relating to bonds issuance) shall apply to the indebtedness  
12 under this act.

13 (b) Payments.--Beginning in fiscal year 2009-2010, money  
14 allocated to the authority annually under section 301 shall be  
15 used by the authority for payment of the debt service related to  
16 the issuance of obligations under subsection (a).

17 (c) Grants and loans.--Proceeds from obligations issued  
18 under subsection (a) and money [remaining in the fund following]  
19 transferred to the authority from the Pennsylvania Gaming  
20 Economic Development and Tourism Fund under section 301 and not  
21 used for the payment of debt service shall be used for [single-  
22 year]:

23 (1) Single-year or multiyear grants to eligible  
24 applicants for projects under this chapter following review  
25 under section 502. Grants shall be awarded to eligible  
26 applicants for projects of \$500,000 or more. A grant under  
27 this act shall not exceed a total of \$20,000,000 for any  
28 project. Grants from proceeds from debt and from money  
29 remaining in the fund shall be awarded over a period not to  
30 exceed six years.

1       (2) Loans to individuals in accordance with section  
2       502.1.

3       (d) Making of grants and loans.--Grants and loans shall be  
4 made as follows:

5           (1) [A minimum of \$100,000,000] The amount of  
6       \$75,000,000 shall be awarded in the form of grants to flood  
7 control projects.

8           (2) [A minimum of \$35,000,000] The amount of \$50,000,000  
9 shall be awarded in the form of grants to high hazard unsafe  
10 dam projects. No more than \$20,000,000 may go to an eligible  
11 applicant that is the Commonwealth or an independent agency.

12           (3) The amount of \$10,000,000 shall be awarded in the  
13 form of grants or loans under section 502.1.

14       \* \* \*

15 Section 502. Distribution of funds.

16       (a) General rule.--[The] Except as provided under subsection  
17 (a.1), the board shall distribute funds available under section  
18 501(c) by awarding grants to eligible applicants for the  
19 following projects:

20           (1) Water or sewer projects owned by an eligible  
21 applicant.

22           (2) Flood control projects owned by an eligible  
23 applicant.

24           (3) High hazard unsafe dam repair or rehabilitation  
25 projects for dams owned by an eligible applicant.

26       (a.1) Allocation.--In accordance with section 501(d)(3), the  
27 board shall allocate \$10,000,000 of the funds available under  
28 section 501(c)(3) to the flood control and prevention loan  
29 program established under section 502.1.

30       (b) Review.--The authority shall consult with the

appropriate agency under section 503 and award grants authorized  
under subsection (a) in accordance with priorities under section  
503 and guidelines adopted under section 501(h).

Section 2. The act is amended by adding sections to read:

Section 502.1. Flood control and prevention loan program.

(a) Establishment.--There is established a flood control and  
prevention loan program which shall be administered by the  
authority. The program shall act as a revolving loan program and  
provide low-interest loans to persons for flood control and  
prevention projects.

(b) Applications.--An eligible property owner may submit an  
application to the authority requesting a loan. Applications  
shall be available electronically. The application shall be on  
the form required by the authority and shall include or  
demonstrate all of the following:

(1) The applicant's name and address.

(2) A description of the flood control and prevention  
project and an estimate of the cost of the project, including  
an itemized list of project costs.

(3) The amount of the loan sought.

(4) A statement authorizing the authority to conduct a  
credit history check.

(5) Any other information required by the authority.

(c) Review of project financing applications.--The authority  
shall review the application to determine if:

(1) The project is eligible for financing under this  
program.

(2) The applicant is eligible to receive a loan under  
this program.

(3) The value of the proposed collateral and the

1 financial resources of the applicant are sufficient to repay  
2 the loan.

3 (4) The statement of the estimated project cost is  
4 accurate and reasonable.

5 (5) The applicant complied with all other criteria  
6 established by the authority.

7 (d) Approval of loan applications.--Once the application is  
8 deemed complete, the board may approve the application. The  
9 board shall have complete discretion in determining whether a  
10 proposed flood control and prevention project is eligible for a  
11 loan.

12 (e) Security.--All loans awarded under the program shall be  
13 secured by a lien on the property for which the loan was  
14 approved and other sufficient collateral as determined by the  
15 authority.

16 (f) Limitations.--Limitations shall be as follows:

17 (1) An applicant may not apply for a loan in an amount  
18 less than \$500 nor more than \$10,000.

19 (2) Terms of the loan shall be set by the board, except  
20 that the board may not require a loan to be repaid in full  
21 within six months of the loan closing date.

22 (3) The interest rate shall be a below-market, fixed  
23 interest rate, as determined by the authority which may not  
24 exceed 3%.

25 (4) The loan repayment period may not exceed ten years  
26 with no prepayment penalty.

27 (5) Any money received by the authority as loan  
28 repayments, or money otherwise made available for the  
29 program, shall be deposited in the account and made available  
30 for additional loans.

1     (g) Grants for low-income applicants.--The authority may, in  
2 its discretion, award a grant to a low-income applicant in lieu  
3 of a loan. The provisions of subsections (c)(1), (2), (4) and  
4 (5) and (f)(1) shall apply to any grant application considered  
5 under this subsection. The total amount of grants awarded under  
6 this subsection may not exceed \$1,000,000.

7     (h) Guidelines.--The authority shall establish guidelines  
8 governing the program and publish the guidelines on the  
9 Department of Community and Economic Development's Internet  
10 website.

11     (i) Notification.--Notification shall be as follows:

12         (1) Within 60 days of the effective date of this  
13 section, the authority shall submit for publication  
14 notification of the establishment of the program under this  
15 section and a brief description of the program in the  
16 Pennsylvania Bulletin and on the Internet website of the  
17 Department of Community and Economic Development. The  
18 authority shall provide written notification of the  
19 establishment of the program to all of the following:

20             (i) The County Commissioners Association of  
21 Pennsylvania.

22             (ii) The Pennsylvania State Association of Township  
23 Commissioners.

24             (iii) The Pennsylvania State Association of Township  
25 Supervisors.

26             (iv) The Pennsylvania State Association of Boroughs.

27             (v) The Pennsylvania League of Cities and  
28 Municipalities.

29         (2) The notification under paragraph (1) shall include  
30 the name of a contact person and the anticipated time that

1 applications and other information will become available.

2 (j) Definitions.--As used in this section, the following  
3 words and phrases shall have the meanings given to them in this  
4 subsection unless the context clearly indicates otherwise:

5 "Applicant." A person that submits an application for a  
6 flood control and prevention project loan under this section.

7 "Eligible property." Owner-occupied dwelling units,  
8 residential rental units and small business properties located  
9 in an area designated as a flood zone by the governing body of  
10 the municipality where the property is located or in an area  
11 that has previously experienced episodes of flooding that  
12 resulted in water and other damage to the property.

13 "Flood control and prevention project." The purchase or  
14 installation of any of the following to alleviate or mitigate  
15 the impacts of flooding of an eligible property:

16 (1) Water resistant or pressure doors and windows.

17 (2) Water resistant materials for interior walls and  
18 floors.

19 (3) Floodskirts and barriers for attachment to doors and  
20 windows.

21 (4) Any materials used to construct barriers to prevent  
22 floodwaters from entering the property, including retaining  
23 walls, terracing, rain gardens and enhanced drainage systems.

24 (5) Any materials used in wet flood proofing or dry  
25 flood proofing techniques.

26 (6) Any other similar product or material approved by  
27 the authority.

28 "Flood prevention project loan." A low-interest rate loan  
29 awarded under this section.

30 "Low-income applicant." An owner of an owner-occupied



dwelling unit whose total household income, as determined by the  
most current Federal tax returns of all adult household members,  
that does not exceed 200% of the Federal poverty level.

"Small business." A person that is engaged in a for-profit  
enterprise and that employs 50 or fewer individuals.

Section 505. Prohibited activities.

(a) Limitation on giving compensation.--A person or its  
affiliated entity may not compensate or incur an obligation to  
compensate a person to engage in lobbying for compensation  
contingent in whole or in part upon the approval, award, receipt  
or denial of a grant or loan under this act.

(b) Limitation on receiving compensation.--A person or its  
affiliated entity may not engage in or agree to engage in  
lobbying for compensation contingent in whole or in part upon  
the approval, award, receipt or denial of a grant or loan under  
this act.

(c) Inapplicability.--This section shall not apply to an  
eligible applicant that compensates a person to prepare or  
assist in the preparation of a grant application and related  
materials for submission to the authority under this act if the  
following requirements are met:

(1) The person is not identified in the submitted  
application.

(2) The person has no direct contact with the authority,  
unless the person is responding to requests for additional  
information or clarification.

(3) The person is paid a fixed fee for the preparation  
or assistance or a percentage of the amount of any grant  
approved, awarded or received not to exceed five tenths  
percent.

1     (d) Violation.--A violation of this section shall constitute  
2     an intentional violation of 65 Pa.C.S. § 13A09 (relating to  
3     penalties).

4     Section 3. Section 701 of the act is amended to read:  
5     Section 701. Annual reports.

6     (a) Authority report.--The authority shall provide an annual  
7     report, which at a minimum shall include:

8         (1) A list of all grants and loans approved during the  
9         previous fiscal year.

10        (2) The name and address of each recipient, including  
11        the name of a contact person of the recipient.

12        (3) The amount of the grant or loan and a detailed  
13        description of the project or flood control and prevention  
14        project for which the grant was awarded.

15     (b) Department report.--The department, in collaboration  
16     with PENNVEST, shall provide an annual report, which at a  
17     minimum shall include:

18        (1) [An] Except for the flood control and prevention  
19        loan program established under section 502.1, an analysis of  
20        how each program authorized under this act is improving the  
21        health and safety of the citizens of this Commonwealth.

22        (2) A summary and analysis of other Commonwealth  
23        programs dedicated to water or sewer projects, flood control  
24        projects and high hazard unsafe dams and how those programs  
25        are improving the health and safety of the citizens of this  
26        Commonwealth.

27     (c) Submission of reports.--The reports required under  
28     subsections (a) and (b) shall be submitted to the Majority  
29     Leader of the Senate, the Minority Leader of the Senate, the  
30     Majority Leader of the House of Representatives and the Minority

1 Leader of the House of Representatives by October 1, 2009, and  
2 October 1 of each year thereafter. The reports shall also be  
3 posted and maintained on the official Internet website of the  
4 authority and the department.

5 Section 4. Repeals are as follows:

6 (1) The General Assembly declares that the repeal under  
7 paragraph (2) is necessary to effectuate the amendment of  
8 section 501(d) of the act.

9 (2) Section 1774-A of the act of April 9, 1929 (P.L.343,  
10 No.176), known as The Fiscal Code, is repealed.

11 (3) The General Assembly declares that the repeal under  
12 paragraph (4) is necessary to effectuate the addition of  
13 section 505 of the act.

14 (4) Section 1776-A of the act of April 9, 1929 (P.L.343,  
15 No.176), known as The Fiscal Code, is repealed.

16 Section 5. This act shall take effect in 60 days.