

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1408 Session of
2014

INTRODUCED BY YUDICHAK, TEPLITZ, KASUNIC, WASHINGTON, FONTANA,
SCHWANK, RAFFERTY, ARGALL, HUGHES, WHITE, COSTA, ERICKSON,
VULAKOVICH, FERLO, FARNESE AND SOLOBAY, JUNE 9, 2014

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 9, 2014

AN ACT

1 Amending the act of July 9, 2008 (P.L.915, No.64), entitled "An
2 act authorizing the incurring of indebtedness, with the
3 approval of the electors, of \$400,000,000 for the
4 acquisition, repair, construction, reconstruction,
5 rehabilitation, extension, expansion and improvement of water
6 supply and sewage treatment systems; and providing for the
7 powers and duties of the Pennsylvania Infrastructure
8 Investment Authority," further providing for legislative
9 findings; authorizing the incurring of indebtedness, with the
10 approval of the electors, of \$600,000,000 for the
11 acquisition, repair, construction, reconstruction,
12 rehabilitation, extension, expansion and improvement of water
13 supply and sewage treatment systems; providing for the powers
14 and duties of the Pennsylvania Infrastructure Investment
15 Authority and for authorization and expiration; and making
16 editorial changes.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The act of July 9, 2008 (P.L.915, No.64), known
20 as the Water and Sewer Systems Assistance Act, is amended by
21 adding a chapter heading to read:

22 CHAPTER 1

23 PRELIMINARY PROVISIONS

24 Section 2. Section 1 of the act is renumbered to read:

1 Section [1] 101. Short title.

2 This act shall be known and may be cited as the Water and
3 Sewer Systems Assistance Act.

4 Section 3. Section 2 of the act is renumbered and amended by
5 adding paragraphs to read:

6 Section [2] 102. Legislative findings.

7 The General Assembly finds and declares as follows:

8 * * *

9 (9) According to the Environmental Protection Agency,
10 this Commonwealth has a 20-year need in excess of
11 \$32,000,000,000 investment in drinking water and wastewater
12 treatment systems.

13 (10) In 2008, the General Assembly enacted Chapter 3 and
14 the public authorized \$400,000,000 that created jobs and
15 started to address this pressing need.

16 Section 4. Section 3 of the act is renumbered to read:

17 Section [3] 103. Definitions.

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

21 "Authority." The Pennsylvania Infrastructure Investment
22 Authority.

23 "Board." The board of directors of the Pennsylvania
24 Infrastructure Investment Authority.

25 "Eligible cost." The cost of all labor, materials, necessary
26 operational machinery and equipment, lands, property, rights and
27 easements, plans and specifications, surveys, estimates of costs
28 and revenues, prefeasibility studies, engineering and legal
29 services and all other expenses necessary or incident to the
30 acquisition, construction, improvement, expansion, extension,

1 repair or rehabilitation of all or part of a project.

2 "Grant." The award and distribution of funds for eligible
3 costs by the Pennsylvania Infrastructure Investment Authority if
4 repayment is not required.

5 "Municipality." A county, city, borough, incorporated town,
6 township, home rule municipality and any municipal authority
7 responsible for the provision of drinking water or sewage
8 treatment services to any of them.

9 "Nutrient." Nitrogen or phosphorus.

10 "Nutrient credit." The unit of compliance that corresponds
11 with a pound of reduction of a nutrient and that has been
12 approved by the Department of Environmental Protection.

13 "Project." The acquisition, construction, improvement,
14 expansion, extension, repair, rehabilitation or security
15 measures of all or part of a facility or system for:

16 (1) the collection, treatment or disposal of wastewater,
17 including industrial waste;

18 (2) the supply, treatment, storage or distribution of
19 drinking water;

20 (3) the control and elimination of combined sewer
21 overflows, defined as a point source discharge from a sewer
22 system that combines sanitary wastewaters and storm waters;

23 (4) the reductions of nitrogen, phosphorus and sediment
24 to comply with Pennsylvania's Chesapeake Bay Tributary
25 Strategy, including the purchase or trading of nutrient
26 credits;

27 (5) the control of storm water, which may include, but
28 is not limited to, the transport, storage and the
29 infiltration of storm water;

30 (6) the best management practices to address point or

1 nonpoint source pollution associated with storm water runoff
2 or any other innovative techniques identified in the county-
3 prepared watershed plans pursuant to the act of October 4,
4 1978 (P.L.864, No.167), known as the Storm Water Management
5 Act;

6 (7) the control of nonpoint sources of pollution
7 identified in programs established under section 319 of the
8 Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C.
9 § 1329); or

10 (8) the consolidation or regionalization of two or more
11 water supply systems, sewage disposal systems or storm water
12 systems managed or operated as an integrated system,
13 regardless of whether the system is physically
14 interconnected.

15 Section 5. The act is amended by adding a chapter heading to
16 read:

17 CHAPTER 3

18 2008 AUTHORIZATION

19 Section 6. Section 4 of the act is renumbered to read:
20 Section [4] 301. Approval of debt incurrence by electors.

21 The question of incurring indebtedness of \$400,000,000 for
22 grants and loans for the cost of all labor, materials, necessary
23 operational machinery and equipment, lands, property, rights and
24 easements, plans and specifications, surveys, estimates of costs
25 and revenues, prefeasibility studies, engineering and legal
26 services and all other expenses necessary or incident to the
27 acquisition, construction, improvement, expansion, extension,
28 repair or rehabilitation of all or part of a project shall be
29 submitted to the electors at the next primary, municipal or
30 general election following the effective date of this section.

Section 7. Sections 5 and 6 of the act are renumbered and amended to read:

Section [5] 302. Certification.

The Secretary of the Commonwealth shall certify the question under section [4] 301 to the county board of elections.

Section [6] 303. Form of question.

The question under section [4] 301 shall be in substantially the following form:

Do you favor the incurring of indebtedness by the Commonwealth of \$400,000,000 for grants and loans to municipalities and public utilities for the cost of all labor, materials, necessary operational machinery and equipment, lands, property, rights and easements, plans and specifications, surveys, estimates of costs and revenues, prefeasibility studies, engineering and legal services and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of drinking water system, storm water, nonpoint source projects, nutrient credits and wastewater treatment system projects?

Section 8. Section 7 of the act is renumbered to read:

Section [7] 304. Election.

The election shall be conducted in accordance with the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

Section 9. Sections 8 and 9 of the act are renumbered and amended to to read:

Section [8] 305. Proceeds.

(a) Use.--Proceeds of borrowing shall be deposited in a

1 special fund in the State Treasury and shall be used for grants
2 and loans by the Pennsylvania Infrastructure Investment
3 Authority for projects.

4 (b) Appropriation.--The proceeds of all bonds sold under
5 this [act] chapter are hereby appropriated on a continuing basis
6 to the Pennsylvania Infrastructure Investment Authority for the
7 purpose of making loans and grants under this [act] chapter.

8 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of
9 Article VIII of the Constitution of Pennsylvania, the issuing
10 officials are authorized and directed to borrow, on the credit
11 of the Commonwealth, money not exceeding in the aggregate
12 \$400,000,000 in increments of not more than \$150,000,000 every
13 year over a three-year period after the effective date of this
14 section.

15 (d) Grant limitations.--

16 (1) The aggregate amount of grants awarded under this
17 section shall not exceed \$200,000,000.

18 (2) The board shall have no power to award any grant,
19 loan or combination thereof that exceeds the following
20 monetary limits:

21 (i) For a sewage treatment system that has an annual
22 average daily flow greater than 100,000,000 gallons per
23 day or a water system that serves a population greater
24 than 300,000 people, \$50,000,000.

25 (ii) For a sewage treatment system that has an
26 annual average daily flow greater than 50,000,000 gallons
27 per day but less than 100,000,000 gallons per day or a
28 water system that serves a population between 100,000 and
29 300,000 people, \$35,000,000.

30 (iii) For a sewage treatment system that has an

1 annual average daily flow greater than 20,000,000 gallons
2 per day but less than 50,000,000 gallons per day or a
3 water system that serves a population between 10,000 and
4 100,000 people, \$25,000,000.

5 (iv) For a sewage treatment system that has an
6 annual average daily flow greater than 10,000,000 gallons
7 per day but less than 20,000,000 gallons per day or a
8 water system that serves a population between 3,301 and
9 10,000 people, \$20,000,000.

10 (v) For a sewage treatment system that has an annual
11 average daily flow greater than 1,000,000 gallons per day
12 but less than 10,000,000 gallons per day or a water
13 system that serves a population between 501 and 3,300
14 people, \$15,000,000.

15 (vi) For a sewage treatment system that has an
16 annual average daily flow less than 1,000,000 gallons per
17 day or a water system that serves a population less than
18 500 people, \$10,000,000.

19 (3) Notwithstanding the provisions of paragraph (2), the
20 board, by a vote of at least nine members, may authorize a
21 grant in excess of the limits established in paragraph (2) to
22 comprehensive projects providing or proposing consolidated
23 service to a region encompassing all or parts of two or more
24 municipalities.

25 (4) Proceeds from the bond issued under this [act]
26 chapter may be used for grants or loans to assist a public
27 utility to acquire a small sewer utility or small water
28 utility as defined under 66 Pa.C.S. § 529 (relating to power
29 of commission to order acquisition of small water and sewer
30 utilities) if both of the following apply:

1 (i) The Pennsylvania Public Utility Commission has
2 determined that the small sewer utility or small water
3 utility has provided unsafe, inadequate or unreasonable
4 service.

5 (ii) The Pennsylvania Public Utility Commission has
6 assessed civil penalties against the small sewer utility
7 or small water utility.

8 (e) Construction.--Nothing in this [act] chapter shall
9 prohibit the use of funds allocated under the provisions of this
10 [act] chapter for projects involving the purchase or trading of
11 nutrient credits.

12 Section [9] 306. Powers and duties of board.

13 (a) General rule.--By March 31, 2009, the board shall
14 implement and administer the proceeds of the bond under section
15 [8] 305 in conformity with the provisions of section 10 of the
16 act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
17 Infrastructure Investment Authority Act.

18 (b) Specific powers of board.--In addition to any powers
19 under subsection (a), the board shall have the power to:

20 (1) Develop forms for the applications of grants and
21 loans.

22 (2) Promulgate regulations to implement the provisions
23 of this [act] chapter.

24 (3) Provide for the implementation of a commercial paper
25 program and the issuance of bonds, notes or other obligations
26 in groups or individually in a manner consistent with the
27 requirements of section 7 of the Pennsylvania Infrastructure
28 Investment Authority Act. Bonds issued under the program
29 established under this paragraph shall not be required to be
30 sold at public sale.

(4) Take all other actions necessary to implement and administer the provisions of this [act] chapter.

Section 10. The act is amended by adding a chapter to read:

CHAPTER 5

2013 AUTHORIZATION

Section 501. Approval of debt incurrence by electors.

The question of incurring indebtedness of \$600,000,000 for grants and loans for the cost of the labor, materials, necessary operational machinery and equipment, lands, property, rights and easements, plans and specifications, surveys, estimates of costs and revenues, prefeasibility studies, engineering and legal services and the other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project shall be submitted to the electors at the next primary, municipal or general election following the effective date of this section.

Section 502. Certification.

The Secretary of the Commonwealth shall certify the question under section 501 to the county board of elections.

Section 503. Form of question.

The question under section 501 shall be in substantially the following form:

Do you favor the incurring of indebtedness by the Commonwealth of \$600,000,000 for grants and loans to municipalities and public utilities for the cost of all labor, materials, necessary operational machinery and equipment, lands, property, rights and easements, plans and specifications, surveys, estimates of costs and revenues, prefeasibility studies, engineering and legal services and the other expenses necessary or incident to

1 the acquisition, construction, improvement, expansion,
2 extension, repair or rehabilitation of all or part of
3 drinking water system, storm water, nonpoint source
4 projects, nutrient credits and wastewater treatment
5 system projects?

6 Section 504. Election.

7 The election shall be conducted in accordance with the act of
8 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
9 Election Code.

10 Section 505. Proceeds.

11 (a) Use.--Proceeds of borrowing shall be deposited in a
12 special fund in the State Treasury and shall be used for grants
13 and loans by the Pennsylvania Infrastructure Investment
14 Authority for projects.

15 (b) Appropriation.--The proceeds of all bonds sold under
16 this chapter are hereby appropriated on a continuing basis to
17 the Pennsylvania Infrastructure Investment Authority for the
18 purpose of making loans and grants under this chapter.

19 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of
20 Article VIII of the Constitution of Pennsylvania, the issuing
21 officials are authorized and directed to borrow, on the credit
22 of the Commonwealth, money not exceeding in the aggregate
23 \$600,000,000 in increments of not more than \$200,000,000 every
24 year over a three-year period after the effective date of this
25 section.

26 (d) Grant limitations.--

27 (1) The aggregate amount of grants awarded under this
28 section may not exceed \$200,000,000.

29 (2) The board does not have the power to award a grant,
30 loan or combination thereof that exceeds the following

1 monetary limits:

2 (i) For a sewage treatment system that has an annual
3 average daily flow greater than 100,000,000 gallons per
4 day or a water system that serves a population greater
5 than 300,000 people, \$50,000,000.

6 (ii) For a sewage treatment system that has an
7 annual average daily flow greater than 50,000,000 gallons
8 per day but less than 100,000,000 gallons per day or a
9 water system that serves a population between 100,000 and
10 300,000 people, \$35,000,000.

11 (iii) For a sewage treatment system that has an
12 annual average daily flow greater than 20,000,000 gallons
13 per day but less than 50,000,000 gallons per day or a
14 water system that serves a population between 10,000 and
15 100,000 people, \$25,000,000.

16 (iv) For a sewage treatment system that has an
17 annual average daily flow greater than 10,000,000 gallons
18 per day but less than 20,000,000 gallons per day or a
19 water system that serves a population between 3,301 and
20 10,000 people, \$20,000,000.

21 (v) For a sewage treatment system that has an annual
22 average daily flow greater than 1,000,000 gallons per day
23 but less than 10,000,000 gallons per day or a water
24 system that serves a population between 501 and 3,300
25 people, \$15,000,000.

26 (vi) For a sewage treatment system that has an
27 annual average daily flow less than 1,000,000 gallons per
28 day or a water system that serves a population less than
29 500 people, \$10,000,000.

30 (3) Notwithstanding the provisions of paragraph (2), the

1 board, by a vote of at least nine members, may authorize a
2 grant in excess of the limits established in paragraph (2) to
3 comprehensive projects providing or proposing consolidated
4 service to a region encompassing all or parts of two or more
5 municipalities.

6 (4) Proceeds from the bond issued under this chapter may
7 be used for grants or loans to assist a public utility to
8 acquire a small sewer utility or small water utility as
9 defined under 66 Pa.C.S. § 529 (relating to power of
10 commission to order acquisition of small water and sewer
11 utilities) if both of the following apply:

12 (i) The Pennsylvania Public Utility Commission has
13 determined that the small sewer utility or small water
14 utility has provided unsafe, inadequate or unreasonable
15 service.

16 (ii) The Pennsylvania Public Utility Commission has
17 assessed civil penalties against the small sewer utility
18 or small water utility.

19 (e) Construction.--This chapter does not prohibit the use of
20 funds allocated under the provisions of this chapter for
21 projects involving the purchase or trading of nutrient credits.

22 Section 506. Powers and duties of board.

23 (a) General rule.--By March 31, 2014, the board shall
24 implement and administer the proceeds of the bond under section
25 505 in conformity with the provisions of section 10 of the act
26 of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
27 Infrastructure Investment Authority Act.

28 (b) Specific powers of board.--In addition to the powers
29 under subsection (a), the board may:

30 (1) Develop forms for the applications of grants and

1 loans.

2 (2) Promulgate regulations to implement the provisions
3 of this chapter.

4 (3) Provide for the implementation of a commercial paper
5 program and the issuance of bonds, notes or other obligations
6 in groups or individually in a manner consistent with the
7 requirements of section 7 of the Pennsylvania Infrastructure
8 Investment Authority Act. Bonds issued under the program
9 established under this paragraph shall not be required to be
10 sold at public sale.

11 (4) Take all other actions necessary to implement and
12 administer the provisions of this chapter.

13 Section 507. Authorization and expiration.

14 Notwithstanding the provisions of section 1783-A of the act
15 of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,
16 the additional amount of \$600,000,000 is authorized if approved
17 by the electorate and the authorization to issue bonds and
18 notes, not including refunding bonds and notes for the purpose
19 of this chapter shall expire ten years from the effective date
20 of this section.

21 Section 11. The act is amended by adding a chapter heading
22 to read:

23 CHAPTER 20

24 MISCELLANEOUS PROVISIONS

25 Section 12. The act is amended by adding a section to read:
26 Section 2001. (Reserved).

27 Section 13. Section 10 of the act is renumbered to read:
28 Section [10] 2002. Effective date.

29 This act shall take effect immediately.

30 Section 14. This act shall take effect immediately.