
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 51

Session of
2003

INTRODUCED BY HERMAN, PHILLIPS, DeWEESE, CORNELL, BEBKO-JONES,
BUXTON, CAPPELLI, CREIGHTON, DALLY, FAIRCHILD, GANNON, GEIST,
HARHAI, HARHART, HESS, LAUGHLIN, LEH, MANN, McNAUGHTON,
PRESTON, SATHER, SAYLOR, SCAVELLO, STEIL, STERN, TURZAI,
WOJNAROSKI, YOUNGBLOOD, R. STEVENSON, LYNCH, HERSHEY,
E. Z. TAYLOR, BROWNE, FRANKEL, HORSEY, YUDICHAK, DALEY AND
SAINATO, JANUARY 29, 2003

SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, DECEMBER 8, 2003

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for powers and
3 duties of authorities.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5607(d)(17), (24), (30), (32) and (33) of
7 Title 53 of the Pennsylvania Consolidated Statutes are amended
8 to read:

9 § 5607. Purposes and powers.

10 * * *

11 (d) Powers.--Every authority may exercise all powers
12 necessary or convenient for the carrying out of the purposes set
13 forth in this section, including, but without limiting the
14 generality of the foregoing, the following rights and powers:

1 * * *

2 (17) To do all acts and things necessary or convenient
3 for the promotion of its business and the general welfare of
4 the authority to carry out the powers granted to it by this
5 chapter or other law[.], including, but not limited to, the
6 adoption of reasonable rules and regulations that apply to
7 water and sewer lines located on a property owned or leased
8 by a customer and to refer for prosecution as a summary
9 offense any violation dealing with rules and regulations
10 relating to water and sewer lines located on a property owned
11 or leased by a customer. UNDER THIS PARAGRAPH, AN AUTHORITY <—
12 ESTABLISHED BY A COUNTY OF THE SECOND CLASS A WHICH IS NOT A
13 HOME RULE COUNTY SHALL HAVE POWERS FOR THE INSPECTION AND
14 REPAIR OF SEWER FACILITIES COMPARABLE TO THE POWERS OF HEALTH
15 OFFICIALS UNDER SECTION 3007 OF THE ACT OF MAY 1, 1933
16 (P.L.103, NO.69), KNOWN AS THE SECOND CLASS TOWNSHIP CODE.

17 * * *

18 (24) To charge enumerated fees to property owners who
19 desire to or are required to connect to the authority's sewer
20 or water system. Fees shall be based upon the duly adopted
21 fee schedule which is in effect at the time of payment and
22 shall be payable at the time of application for connection or
23 at a time to which the property owner and the authority
24 agree. In the case of projects to serve existing development,
25 fees shall be payable at a time to be determined by the
26 authority. An authority may require that no capacity be
27 guaranteed for a property owner until the tapping fees have
28 been paid or secured by other financial security. The fees
29 shall be in addition to any charges assessed against the
30 property in the construction of a sewer or water main by the

1 authority under paragraphs (21) and (22) as well as any other
2 user charges imposed by the authority under paragraph (9)
3 [but], except that no reservation of capacity fee or other
4 similar charge shall be imposed or collected from a property
5 owner who has applied for service unless the charge is based
6 on debt and fixed operating expenses. A reservation of
7 capacity fee or other similar charge may not exceed 60% of
8 the average sanitary sewer bill for a residential customer in
9 the same sewer service area for the same billing period. Any
10 authority opting to collect a reservation of capacity fee or
11 other similar charge may not collect the tapping fee until
12 the time as the building permit fee is due. Tapping fees
13 shall not include costs included in the calculation of [such]
14 any other fees[.], assessments, rates or other charges
15 imposed under this act.

16 (i) The fees may include any of the following [fee
17 components] if they are separately set forth in a
18 resolution adopted by the authority [to establish these
19 fees]:

20 (A) Connection fee. [It may] A connection fee
21 shall not exceed an amount based upon the actual cost
22 of the connection of the property extending from the
23 authority's main to the property line or curb stop of
24 the property connected. The authority may also base
25 the connection fee upon an average cost for
26 previously installed connections of similar type and
27 size. Such average cost may be trended to current
28 cost using published cost indexes. In lieu of payment
29 of the [fees] fee, an authority may require the
30 construction [and dedication] of those facilities by

1 the property owner who requested the connection.

2 (B) Customer facilities fee. [It may] A customer
3 facilities fee shall not exceed an amount based upon
4 the actual cost of facilities serving the connected
5 property from the property line or curb stop to the
6 proposed dwelling or building to be served. The fee
7 shall be chargeable only if the authority installs
8 the customer facilities. In lieu of payment of the
9 customer facilities fee, an authority may require the
10 construction of those facilities by the property
11 owner who requests customer facilities. In the case
12 of water service, the fee may include the cost of a
13 water meter and installation if the authority
14 provides or installs the water meter. If the property
15 connected or to be connected with the sewer system of
16 the authority is not equipped with a water meter, the
17 authority may install a meter at its own cost and
18 expense. If the property is supplied with water from
19 the facilities of a public water supply agency, the
20 authority shall not install a meter without the
21 consent and approval of the public water supply
22 agency.

23 (C) Tapping fee. [It may] A tapping fee shall
24 not exceed an amount based upon some or all of the
25 following [fee components if they are] parts which
26 shall be separately set forth in the resolution
27 adopted by the authority to establish these fees. In
28 lieu of payment of this fee, an authority may require
29 the construction and dedication of only such
30 capacity, distribution-collection or special purpose

1 facilities necessary to supply service to the
2 property owner or owners.

3 (I) Capacity part. The [fee may] capacity
4 part shall not exceed an amount that is based
5 upon the cost of capacity-related facilities,
6 including, but not limited to, source of supply,
7 treatment, pumping, transmission, trunk,
8 interceptor and outfall mains, storage, sludge
9 treatment or disposal, interconnection or other
10 general system facilities. [Facilities] Except as
11 specifically provided in this paragraph, such
12 facilities may include only those that provide
13 existing service [or will provide future
14 service]. The cost of [existing] capacity-related
15 facilities, excluding facilities contributed to
16 the authority by any person, government or
17 agency, or portions of facilities paid for with
18 contributions or grants other than tapping fees,
19 shall be based upon their [replacement cost or
20 upon] historical cost trended to current cost
21 using published cost indexes or upon the
22 historical cost plus interest and other financing
23 fees paid on [bonds] debt financing such
24 facilities. [In the case of existing facilities,
25 outstanding] To the extent that historical cost
26 is not ascertainable, tapping fees may be based
27 upon an engineer's reasonable written estimate of
28 current replacement cost. Such written estimate
29 shall be based upon and include an itemized
30 listing of those components of the actual

1 facilities for which historical cost is not
2 ascertainable. Outstanding debt related to the
3 facilities shall be subtracted from the cost,
4 [but debt may not be subtracted which is
5 attributable] except when calculating the initial
6 tapping fee imposed for connection to facilities
7 exclusively serving new customers. [Under all
8 cost approaches, the cost of capacity-related
9 facilities shall be reduced by the amount of
10 grants or capital contributions which have
11 financed them. The capacity part of the tapping
12 fee per unit of capacity required by the new
13 customer may not exceed the cost of the
14 facilities divided by the design capacity.] The <—
15 ~~outstanding debt shall be subtracted for all~~
16 ~~subsequent revisions of the tapping fee, except~~
17 ~~as specifically provided herein. For tapping fees~~
18 ~~imposed for connection to facilities exclusively~~
19 ~~serving new customers, an authority may, no more~~
20 ~~frequently than annually and without updating the~~
21 ~~historical cost of or subtracting the outstanding~~
22 ~~debt related to such facilities, increase the~~
23 ~~tapping fee by an amount calculated by~~
24 ~~multiplying such tapping fee by the weighted~~
25 ~~average interest rate on the debt related to such~~
26 ~~facilities applicable since the last increase of~~
27 ~~the tapping fee for such facilities. THE~~ <—
28 OUTSTANDING DEBT SHALL BE SUBTRACTED FOR ALL
29 SUBSEQUENT REVISIONS OF THE INITIAL TAPPING FEE
30 WHERE THE HISTORICAL COST HAS BEEN UPDATED TO

1 REFLECT CURRENT COST, EXCEPT AS SPECIFICALLY
2 PROVIDED IN THIS SECTION. FOR TAPPING FEES OR
3 COMPONENTS RELATED TO FACILITIES INITIALLY
4 SERVING EXCLUSIVELY NEW CUSTOMERS, AN AUTHORITY
5 MAY NO MORE FREQUENTLY THAN ANNUALLY, AND WITHOUT
6 UPDATING THE HISTORICAL COST OF OR SUBTRACTING
7 THE OUTSTANDING DEBT RELATED TO SUCH FACILITIES,
8 INCREASE SUCH TAPPING FEE BY AN AMOUNT CALCULATED
9 BY MULTIPLYING THE TAPPING FEE BY THE WEIGHTED
10 AVERAGE INTEREST RATE ON THE DEBT RELATED TO SUCH
11 FACILITIES APPLICABLE FOR THE PERIOD SINCE THE
12 FEE WAS INITIALLY ESTABLISHED OR THE LAST
13 INCREASE OF THE TAPPING FEE FOR SUCH FACILITIES.
14 The capacity part of the tapping fee per unit of
15 design capacity of said facilities required by
16 the new customer shall not exceed the total cost
17 of the facilities as described herein divided by
18 the system design capacity of all such
19 facilities. Where the cost of facilities to be
20 constructed or acquired in the future are
21 included in the calculation of the capacity part
22 as permitted herein, the total cost of the
23 facilities shall be divided by the system design
24 capacity plus the additional capacity to be
25 provided by the facilities to be constructed or
26 acquired in the future. An authority may allocate
27 its capacity-related facilities to different
28 sections or districts of its system and may
29 impose additional capacity-related tapping fees
30 on specific groups of existing customers such as

1 commercial and industrial customers in
2 conjunction with additional capacity requirements
3 of those customers. [In the case of] The cost of
4 facilities to be constructed or acquired[, the]
5 in the future that will increase the system
6 design capacity may be included in the
7 calculation of the capacity part, subject to the
8 provisions of clause (VI). The cost of such
9 facilities shall not exceed their reasonable
10 estimated cost set forth in a duly adopted annual
11 budget or a five-year capital improvement plan[,
12 and the authority in furtherance of the
13 facilities must take any action as follows:]. The
14 authority shall have taken at least two of the
15 following actions toward construction of the
16 facilities:

17 (a) [obtain] obtained financing for the
18 facilities;

19 (b) [enter] entered into a contract
20 obligating the authority to construct or pay
21 for the cost of construction of the
22 facilities or its portion thereof in the
23 event that multiple parties are constructing
24 the facilities;

25 (c) [obtain] obtained a permit for the
26 facilities;

27 (d) [spend substantial sums or resources
28 in furtherance of the facilities;] obtained
29 title to or condemned additional real estate
30 upon which the facilities will be

1 constructed;

2 (e) [enter] entered into a contract
3 obligating the authority to purchase or
4 acquire facilities owned by another;

5 (f) [prepare] prepared an engineering
6 feasibility study specifically related to the
7 facilities, which study recommends the
8 construction of the facilities within a five-
9 year period; [or]

10 (g) [enter] entered into a contract for
11 the design or construction of the
12 facilities[.] or adopted a budget which
13 includes the use of in-house resources for
14 the design or construction of the facilities.

15 (II) Distribution or collection part. The
16 [fee] distribution or collection part may not
17 exceed an amount based upon the cost of
18 distribution or collection facilities required to
19 provide service, such as mains, hydrants and
20 pumping stations. Facilities may only include
21 those that provide existing service [or those
22 that will provide future service]. The cost of
23 [existing] distribution or collections
24 facilities, excluding facilities contributed to
25 the authority by any person, government or
26 agency, or portions of facilities paid for with
27 contributions or grants other than tapping fees,
28 shall be based upon [their replacement cost or
29 upon] historical cost trended to current cost
30 using published cost indexes or upon the

historical cost plus interest and other financing fees paid on [bonds] debt financing such facilities. To the extent that historical cost is not ascertainable, tapping fees may be based upon an engineer's reasonable written estimate of replacement cost. Such written estimate shall be based upon and include an itemized listing of those components of the actual facilities for which historical cost is not ascertainable. [In the case of existing facilities, outstanding] Outstanding debt related to the facilities shall be subtracted from the cost, [but debt may not be subtracted which is attributable] except when calculating the initial tapping fee imposed for connection to facilities exclusively serving new customers. [In the case of facilities to be constructed or acquired, the cost shall not exceed their reasonable estimated cost. Under all cost approaches, the cost of distribution or collection facilities shall be reduced by the amount of grants or capital contributions which have financed them.] ~~The outstanding debt shall be subtracted for all subsequent revisions of the tapping fee except as specifically provided herein. For tapping fee imposed for connection to facilities exclusively serving new customers, an authority may, no more frequently than annually, and without updating the historical cost of or subtracting the outstanding debt related to such facilities, increase such tapping fee by an~~

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~~amount calculated by multiplying the tapping fee
by the weighted average interest rate on the debt
related to such facilities applicable since the
last increase of the tapping fee for such
facilities.~~ THE OUTSTANDING DEBT SHALL BE
SUBTRACTED FOR ALL SUBSEQUENT REVISIONS OF THE
INITIAL TAPPING FEE WHERE THE HISTORICAL COST HAS
BEEN UPDATED TO REFLECT CURRENT COST, EXCEPT AS
SPECIFICALLY PROVIDED IN THIS SECTION. FOR
TAPPING FEES OR COMPONENTS RELATED TO FACILITIES
INITIALLY SERVING EXCLUSIVELY NEW CUSTOMERS, AN
AUTHORITY MAY NO MORE FREQUENTLY THAN ANNUALLY,
AND WITHOUT UPDATING THE HISTORICAL COST OF OR
SUBTRACTING THE OUTSTANDING DEBT RELATED TO SUCH
FACILITIES, INCREASE SUCH TAPPING FEE BY AN
AMOUNT CALCULATED BY MULTIPLYING THE TAPPING FEE
BY THE WEIGHTED AVERAGE INTEREST RATE ON THE DEBT
RELATED TO SUCH FACILITIES APPLICABLE FOR THE
PERIOD SINCE THE FEE WAS INITIALLY ESTABLISHED OR
THE LAST INCREASE OF THE TAPPING FEE FOR SUCH
FACILITIES. The distribution or collection part
of the tapping fee per unit of design capacity of
said facilities required by the new customer
[may] shall not exceed the cost of the facilities
divided by the design capacity. An authority may
allocate its distribution-related or collection-
related facilities to different sections or
districts of its system and may impose additional
distribution-related or collection-related
tapping fees on specific groups of existing

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1 customers such as commercial and industrial
2 customers in conjunction with additional capacity
3 requirements of those customers.

4 (III) Special purpose part. [Fees] A part
5 for special purpose facilities shall be
6 applicable only to a particular group of
7 customers or for serving a particular purpose or
8 a specific area based upon the cost of the
9 facilities, including, but not limited to,
10 booster pump stations, fire service facilities,
11 water or sewer mains, pumping stations and
12 industrial wastewater treatment facilities.

13 [Facilities] Such facilities may include only
14 those that provide existing service [or those
15 that will provide future service]. The cost of
16 [existing] special purpose facilities, excluding
17 facilities contributed to the authority by any
18 person, government or agency, or portions of
19 facilities paid for with contributions or grants
20 other than tapping fees, shall be based upon
21 [their replacement cost or upon] historical cost
22 trended to current cost using published cost
23 indexes or upon the historical cost plus interest
24 and other financing fees paid on [bonds] debt
25 financing such facilities. [In the case of
26 existing facilities, outstanding] To the extent
27 that historical cost is not ascertainable,
28 tapping fees may be based upon an engineer's
29 reasonable written estimate of current
30 replacement cost. Such written estimate shall be

1 based upon and include an itemized listing of
2 those components of the actual facilities for
3 which historical cost is not ascertainable.
4 Outstanding debt related to the facilities shall
5 be subtracted from the cost, [but debt may not be
6 subtracted which is attributable] except when
7 calculating the initial tapping fee imposed for
8 connection to facilities exclusively serving new
9 customers. [In the case of facilities to be
10 constructed or acquired, the cost shall not
11 exceed their reasonable estimated cost. Under all
12 cost approaches, the cost of special purpose
13 facilities shall be reduced by the amount of
14 grants or capital contributions which have
15 financed such facilities.] ~~The outstanding debt~~ <—
16 ~~shall be subtracted for all subsequent revisions~~
17 ~~of the tapping fee except as specifically~~
18 ~~provided herein. For tapping fees imposed for~~
19 ~~connection to facilities exclusively serving new~~
20 ~~customers, an authority may, no more frequently~~
21 ~~than annually, and without updating the~~
22 ~~historical cost of or subtracting the outstanding~~
23 ~~debt related to such facilities, increase the~~
24 ~~tapping fee by an amount calculated by~~
25 ~~multiplying such tapping fee by the weighted~~
26 ~~average interest rate on the debt related to such~~
27 ~~facilities applicable since the last increase of~~
28 ~~the tapping fee for such facilities. THE~~ <—
29 OUTSTANDING DEBT SHALL BE SUBTRACTED FOR ALL
30 SUBSEQUENT REVISIONS OF THE INITIAL TAPPING FEE

1 WHERE THE HISTORICAL COST HAS BEEN UPDATED TO
2 REFLECT CURRENT COST, EXCEPT AS SPECIFICALLY
3 PROVIDED IN THIS SECTION. FOR TAPPING FEES OR
4 COMPONENTS RELATED TO FACILITIES INITIALLY
5 SERVING EXCLUSIVELY NEW CUSTOMERS, AN AUTHORITY
6 MAY NO MORE FREQUENTLY THAN ANNUALLY, AND WITHOUT
7 UPDATING THE HISTORICAL COST OF OR SUBTRACTING
8 THE OUTSTANDING DEBT RELATED TO SUCH FACILITIES,
9 INCREASE SUCH TAPPING FEE BY AN AMOUNT CALCULATED
10 BY MULTIPLYING THE TAPPING FEE BY THE WEIGHTED
11 AVERAGE INTEREST RATE ON THE DEBT RELATED TO SUCH
12 FACILITIES APPLICABLE FOR THE PERIOD SINCE THE
13 FEE WAS INITIALLY ESTABLISHED OR THE LAST
14 INCREASE OF THE TAPPING FEE FOR SUCH FACILITIES.

15 The special purpose part of the tapping fee per
16 unit of design capacity of such special purpose
17 facilities required by the new customer [may]
18 shall not exceed the cost of the facilities as
19 described herein divided by the design capacity
20 of the facilities. Where an authority constructs
21 special purpose facilities at its own expense,
22 the design capacity for the facilities may be
23 expressed in terms of the number of equivalent
24 dwelling units to be served by the facilities. In
25 no event shall an authority continue to collect
26 any tapping fee which includes a special purpose
27 part after special purpose part fees have been
28 imposed on the total number of design capacity
29 units used in the original calculation of the
30 special purpose part. An authority may allocate

1 its special purpose facilities to different
2 sections or districts of its system and may
3 impose additional special purpose tapping fees on
4 specific groups of existing customers such as
5 commercial and industrial customers in
6 conjunction with additional capacity requirements
7 of those customers.

8 (IV) Reimbursement [component. An amount
9 necessary to recapture the allocable portion of
10 facilities in order to reimburse the property
11 owner or owners] part. The reimbursement part
12 shall only be applicable to the users of certain
13 specific facilities when a fee required to be
14 collected from such users will be reimbursed to
15 the person at whose expense the facilities were
16 constructed as set forth in [paragraphs (31) and
17 (32).] a written agreement between the authority
18 and such person at whose expense such facilities
19 were constructed.

20 (V) Calculation of tapping fee [components].

21 (a) In arriving at the cost to be
22 included in the tapping fee [components], the
23 same cost [may] shall not be included in more
24 than one part of the tapping fee.

25 (b) No tapping fee may be based upon or
26 include the cost of expanding, replacing,
27 updating or upgrading facilities serving only
28 existing customers in order to meet stricter
29 efficiency, environmental, regulatory or
30 safety standards or to provide better service

1 to or meet the needs of existing customers.

2 (c) The cost used in calculating tapping
3 fees shall not include maintenance and
4 operation expenses.

5 (d) As used in this subclause,
6 "maintenance and operation expenses" are
7 those expenditures made during the useful
8 life of a sewer or water system for labor,
9 materials, utilities, equipment accessories,
10 appurtenances and other items which are
11 necessary to manage and maintain the system
12 capacity and performance and to provide the
13 service for which the system was constructed.
14 Costs or expenses to reduce or eliminate
15 groundwater infiltration or inflow may not be
16 included in the cost of facilities used to
17 calculate tapping fees unless these costs or
18 expenses result in an increase in system
19 design capacity.

20 (e) Except as otherwise provided for the
21 calculation of a special purpose part, the
22 design capacity required by a new residential
23 customer used in calculating sewer or water
24 tapping fees shall not exceed an amount
25 established by multiplying 65 gallons per
26 capita per day for water capacity, 100 90 <—
27 gallons per capita per day for sewer capacity
28 for the first five years after the effective <—
29 date of this section and 80 gallons per
30 capita per day for sewer capacity thereafter,

times the average number of persons per household as established by the most recent census data provided by the United States Census Bureau. If an authority service area is entirely within a municipal boundary for which there is corresponding census data specifying the average number of persons per household, issued by the United States Census Bureau, the average shall be used. If an authority service area is not entirely within a municipal boundary but is entirely within a county or other geographic area within Pennsylvania for which the United States Census Bureau has provided the average number of persons per household, then that average for the county or geographic area shall be used. If an authority service area is not entirely within a municipal, county or other geographic area within Pennsylvania for which the United States Census Bureau has calculated an average number of persons per household, then the Pennsylvania average number of persons per household shall be used as published by the United States Census Bureau. Alternatively, the design capacity required for a new residential customer shall be determined by a study, but shall not exceed:

(i) for water capacity, the average residential water consumption per

1 residential customer or for sewage
2 capacity, the average residential water
3 consumption per residential customer plus
4 ten percent. The average residential
5 water consumption shall be determined by
6 dividing the total water consumption for
7 all metered residential customers in the
8 authority's service area over at least a
9 twelve-consecutive-month period within
10 the most recent five years by the average
11 number of customers during the period; or
12 (ii) for sewer capacity, the average
13 sewage flow per residential customer
14 determined by a measured sewage flow
15 study. Such study shall be completed in
16 accordance with sound engineering
17 practices within the most recent five
18 years for the lesser of three or all
19 residential subdivisions of more than ten
20 lots which have collection systems in
21 good repair and which connected to the
22 authority's facilities within the most
23 recent five years. The study shall
24 calculate the average sewage flow per
25 residential customer in such developments
26 by measuring actual sewage flows over at
27 least twelve consecutive months at the
28 points where such developments connected
29 to the authority's sewer main.

30 (iii) All data and other information

1 considered or obtained by an authority in
2 connection with determining capacity
3 under this subsection shall be made
4 available to the public upon request.

5 (iv) If any person required to pay a
6 tapping fee submits to the authority an
7 opinion from a professional engineer that
8 challenges the validity of the results of
9 the calculation of design capacity
10 required to serve new residential
11 customers prepared under subparagraph (i)
12 or (ii), the authority shall within 30
13 days obtain a written certification from
14 another professional engineer, who is not
15 an employee of the authority, verifying
16 that the results and the calculations,
17 methodology and measurement were
18 performed in accordance with this act and
19 generally accepted engineering practices.
20 If an authority does not obtain a
21 certification required under this
22 subsection within 30 days of receiving
23 such challenge, the authority may not
24 impose or collect tapping fees based on
25 any such challenged calculations or study
26 until such engineering certification is
27 obtained.

28 (f) An authority may use lower design
29 capacity requirements and impose lower
30 tapping fees for multifamily residential

1 dwelling than imposed on other types of
2 residential customers.

3 (VI) Separate accounting for future facility
4 costs. Any portion of tapping fees collected
5 which, based on facilities to be constructed or
6 acquired in the future in accordance with this
7 section, shall be separately accounted for and
8 shall be expended only for that particular
9 facility, or a substitute facility accomplishing
10 the same purpose which is commenced within the
11 same period. Such accounting shall include, but
12 not be limited to, the total fees collected as a
13 result of including facilities to be constructed
14 in the future, the source of the fees collected
15 and the amount of fees expended on specific
16 facilities. The proportionate share of tapping
17 fees based upon facilities to be constructed or
18 acquired in the future under this section shall
19 be refunded to the payor of such fees within 90
20 days of the occurrence of the following:

21 (a) the authority abandons its plan or a
22 part thereof to construct or acquire a
23 facility or facilities which are the basis
24 for such fee; or

25 (b) the facilities have not been placed
26 into service within seven years or for an
27 authority which provides service to five or
28 more municipalities, the facilities have not
29 been placed into service within 15 years,
30 after adoption of a resolution which imposes

1 tapping fees which are based upon facilities
2 to be constructed or acquired in the future.
3 Any refund of fees held for 15 years shall
4 include interest for the period the money was
5 held.

6 (VII) Definitions. As used in this clause,
7 the following words and phrases shall have the
8 meanings given to them in this subclause:

9 "BOD5." The five-day biochemical-oxygen
10 demand.

11 "Design capacity." For residential
12 customers, the permitted or rated capacity of
13 facilities expressed in million gallons per day.
14 For nonresidential customers, design capacity may
15 also be expressed in pounds of BOD5 per day,
16 pounds of suspended solids per day or any other
17 capacity defining parameter that is separately
18 and specifically set forth in the permit
19 governing the operation of the system, and based
20 upon its original design as modified by those
21 regulatory agencies having jurisdiction over
22 these facilities. Additionally, for separate fire
23 service customers, the permitted or rated
24 capacity of fire service facilities may be
25 expressed in peak flows. The units of measurement
26 used to express design capacity shall be the same
27 units of measurement used to express the system
28 design capacity. Except as otherwise provided for
29 special purpose facilities, design capacity may
30 not be expressed in terms of equivalent dwelling

1 units.

2 "Outstanding debt." The principal amount
3 outstanding of any bonds, notes, loans or other
4 form of indebtedness used to finance or refinance
5 facilities included in the tapping fee.

6 "Service line." A water or sewer line that
7 directly connects a single building or structure
8 to a distribution or collection facility.

9 "System design capacity." The design
10 capacity of the system for which the tapping fee
11 is being calculated which represents the total
12 design capacity of the treatment facility or
13 water sources.

14 (ii) Every authority charging a tapping, customer
15 facilities or connection fee shall do so only pursuant to
16 a resolution adopted at a public meeting of the
17 authority. The authority shall have available for public
18 inspection a detailed itemization of all calculations,
19 clearly showing the maximum fees allowable for each part
20 of the tapping fee and the manner in which the fees were
21 determined[.], which shall be made a part of any
22 resolution imposing such fees. A [revised] tapping,
23 customer facilities or connection fee may be revised and
24 imposed upon those who subsequently connect to the
25 system[.], subject to the provisions and limitations of
26 the act.

27 (iii) No authority [may] shall have the power to
28 impose a connection fee, customer facilities fee, tapping
29 fee or similar fee except as provided specifically under
30 this section.

1 (iv) A municipality or municipal authority with
2 available excess sewage capacity, wishing to sell a
3 portion of that capacity to another municipality or
4 municipal authority, may not charge a higher cost for the
5 capacity portion of the tapping fee as the selling entity
6 charges to its customers for the capacity portion of the
7 tapping fee. In turn, the municipality or municipal
8 authority buying this excess capacity may not charge a
9 higher cost for the capacity portion of the tapping fee
10 to its residential customers than that charged to them by
11 the selling entity.

12 (v) As used in this paragraph, the term "residential
13 customer" shall also include those developing property
14 for residential dwellings that require multiple tapping
15 fee permits. This paragraph shall not be applicable to
16 intermunicipal or interauthority agreements relative to
17 the purchase of excess capacity by an authority or
18 municipality in effect prior to February 20, 2001.

19 * * *

20 (30) Where a sewer or water system of an authority is to
21 be extended at the expense of the owner of properties or
22 where the authority otherwise would construct customer
23 facilities referred to in paragraph (24), other than water
24 meter installation, [to allow] a property owner shall have
25 the right to construct the extension or install the customer
26 facilities himself or through a subcontractor approved by the
27 authority, which approval shall not be unreasonably withheld.
28 The authority [may] shall have the right, at its option, to
29 perform the construction itself only if the authority
30 provides the extension or customer facilities at a lower cost

1 and within the same timetable specified or proposed by the
2 property owner or his approved subcontractor. Construction by
3 the property owner shall be in accordance with an agreement
4 for the extension of the authority's system and plans and
5 specifications approved by the authority and shall be
6 undertaken only pursuant to the existing regulations,
7 requirements, rules and standards of the authority applicable
8 to such construction. Construction shall be subject to
9 inspection by an inspector authorized to approve similar
10 construction and employed by the authority during
11 construction. When a main is to be extended at the expense of
12 the owner of properties, the property owner may be required
13 to deposit with the authority, in advance of construction,
14 the authority's estimated reasonable and necessary cost of
15 reviewing plans, construction inspections, administrative,
16 legal and engineering services. The authority may require
17 that construction shall not commence until the property owner
18 has posted appropriate financial security in accordance with
19 paragraph (23). The authority may require the property owner
20 to reimburse it for reasonable and necessary expenses it
21 incurred as a result of the extension. If an independent firm
22 is employed for engineering review of the plans and the
23 inspection of improvements, reimbursement for its services
24 shall be reasonable and in accordance with the ordinary and
25 customary fees charged by the independent firm for work
26 performed for similar services in the community. The fees
27 [may] shall not exceed the rate or cost charged by the
28 independent firm to the authority when fees are not
29 reimbursed or otherwise imposed on applicants. Upon
30 completion of construction, the property owner shall dedicate

1 and the authority shall accept the extension of the
2 authority's system if dedication of facilities and the
3 installation complies with the plans, specifications,
4 regulations of the authority and the agreement. An authority
5 may provide in its regulations those facilities which, having
6 been constructed at the expense of the owner of properties,
7 the authority will require to be dedicated and which facility
8 or facilities the authority will accept as a part of its
9 system.

10 (i) In the event the property owner disputes the
11 amount of any billing in connection with the review of
12 plans, construction inspections, administrative, legal
13 and engineering services, the property owner shall,
14 within 20 working days of the date of billing, notify the
15 authority that the billing is disputed as excessive,
16 unreasonable or unnecessary, in which case the authority
17 shall not delay or disapprove any application or any
18 approval or permit related to the extension or facilities
19 due to the property owner's dispute over the disputed
20 billings, unless the property owner has failed to make
21 payment in accordance with the decision rendered under
22 clause (iii) within 30 days after the mailing date of
23 such decision.

24 (ii) If, within 30 days from the date of billing,
25 the authority and the property owner cannot agree on the
26 amount of billings which are reasonable and necessary,
27 the property owner and authority shall, by mutual
28 agreement, appoint a professional of the same profession
29 or discipline licensed in Pennsylvania to review the
30 billings and make a determination as to the amount of

1 billings which is reasonable and necessary.

2 (iii) The professional appointed under clause (ii)
3 shall hear evidence and review the documentation as the
4 professional in his or her sole opinion deems necessary
5 and shall render a decision within 60 days of the billing
6 date. The property owner shall be required to pay the
7 entire amount determined in the decision immediately.

8 (iv) In the event that the authority and property
9 owner cannot agree upon the professional to be appointed
10 within 30 days of the billing date, the president judge
11 of the court of common pleas of the judicial district in
12 which the municipality is located or if, at the time
13 there is no president judge, the senior active judge then
14 sitting upon application of either party shall appoint a
15 professional, who shall be neither the authority engineer
16 nor any professional who has been retained by or
17 performed services for the authority or the property
18 owner within the preceding five years.

19 (v) The fee of the appointed professional for
20 determining the reasonable and necessary expenses shall
21 be paid by the applicant if the amount of payment
22 required in the decision is equal to or greater than the
23 original bill. If the amount of payment required in the
24 decision is less than the original bill by \$2,500 or
25 more, the authority shall pay the fee of the
26 professional. If the amount of the payment required in
27 the decision is less than the original bill by \$2,499 or
28 less, the authority and the property owner shall each pay
29 one-half of the fee of the appointed professional.

30 * * *

1 [(32) If a sewer system or water system or any part or
2 extension owned by an authority has been constructed at the
3 expense of a private person or corporation, the authority may
4 charge a tapping fee. The authority shall refund the tapping
5 fee or any part of the fee to the person or corporation who
6 paid for the construction of the sewer or water system or any
7 part or extension of it.]

8 (33) Provisions of paragraphs (30)[,] and (31) [and
9 (32)] shall apply to residential customers in a municipality
10 where the sewer service is being purchased by the
11 municipality or sewer authority from another municipality or
12 sewer authority having excess sewage capacity.

13 Section 2. Notwithstanding section 5(1) of this act, this
14 act shall apply immediately to any connection, customer
15 facilities, tapping or similar fees which are increased or
16 initially imposed subsequent to the effective date of this
17 section.

18 Section 3. Notwithstanding section 5(1) of this act, the
19 mandatory refund provisions of 53 Pa.C.S. §
20 5607(d)(24)(i)(C)(VI) applicable to tapping fees based upon
21 facilities to be constructed or acquired in the future shall
22 apply to tapping fees collected subsequent to the effective date
23 of this section, regardless of when the resolution adopting such
24 tapping fees was adopted.

25 ~~Section 4. The provisions of 53 Pa.C.S. §~~
26 ~~5607(d)(24)(i)(C)(V)(e) shall not apply:~~

27 ~~(1) For a period of five years after the effective date~~

28 SECTION 4. THE FOLLOWING SHALL APPLY:

29 (1) THE PROVISIONS OF 53 PA.C.S. § 5607(D)(24)(I)(C)(I)
30 AND (V)(E) SHALL NOT APPLY FOR A PERIOD OF 15 YEARS AFTER THE

1 EFFECTIVE DATE of this section, to sewer tapping fees imposed
2 by a joint authority having six or more municipal members
3 which is prohibited from implementing any increase in sewer
4 user fees pursuant to the terms of a contract executed prior
5 to January 1, 2003.

6 (2) ~~For~~ THE PROVISIONS OF 53 PA.C.S. § <—
7 5607(D)(24)(I)(C)(V)(E) SHALL NOT APPLY FOR a period of five
8 years after the date of closing of original financing, when
9 an authority, in order to support the construction of new
10 facilities, used original financing which closed on or before
11 ~~January 1, 2002,~~ JULY 1, 2003, which has a term of at least <—
12 15 years and in which tapping fees were relied upon to
13 support the debt service on the financing.

14 Section 5. This act shall take effect as follows:

15 (1) The amendment of 53 Pa.C.S. § 5607(d)(24), (30),
16 (32) and (33) shall take effect in 18 months.

17 (2) The remainder of this act shall take effect
18 immediately.