

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1068 Session of 2009

INTRODUCED BY SCAVELLO, SIPTROTH, PEIFER, CARROLL, ARGALL,
CLYMER, CREIGHTON, DALLY, FABRIZIO, FREEMAN, GEIST, GIBBONS,
GOODMAN, HENNESSEY, KORTZ, KOTIK, MAJOR, MARSHALL, METZGAR,
MUNDY, MURT, O'NEILL, PETRARCA, PICKETT, REICHLEY, SANTONI,
SOLOBAY, STABACK, J. TAYLOR, VULAKOVICH, WALKO, WATSON, WHITE
AND YOUNGBLOOD, MARCH 24, 2009

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 24, 2009

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, providing for dam project loans;
3 authorizing certain indebtedness; providing for a referendum;
4 and establishing the Dam Project Fund and the Dam Project
5 Revolving Loan Fund.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Title 27 of the Pennsylvania Consolidated
9 Statutes is amended by adding a chapter to read:

CHAPTER 67

DAM MANAGEMENT

Sec.

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17 § 6701. Definitions.

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

21 "Bonds." The bonds authorized to be issued or issued under
22 this chapter.

23 "Cost." The expenses incurred in connection with:

24 (1) The funding of dam removal, restoration and repair
25 projects.

26 (2) The interest or discount on bonds.

27 (3) The issuance of bonds.

28 (4) The procurement or provision of engineering,
29 inspection, relocation, legal, financial, planning,
30 geological, hydrological and other professional services,

1 estimates and advice, including the services of a bond
2 registrar or an authenticating agent.

3 (5) The issuance of bonds or any interest or discount
4 thereon.

5 (6) The administrative, organizational, operating or
6 other expenses incident to the financing and completing of
7 any project authorized by this chapter.

8 (7) The establishment of a reserve fund or funds for
9 working capital, operating, maintenance or replacement
10 expenses and for the payment or security of principal or
11 interest on bonds.

12 (8) The cost of all labor, materials, machinery and
13 equipment, lands, property, rights and easements, financing
14 charges, interest on bonds, notes or other obligations, plans
15 and specifications, surveys or estimates of costs and
16 revenues, engineering and legal services and all other
17 expenses necessary or incident to all or part of any project
18 authorized by this chapter.

19 (9) Reimbursement to any fund of the Commonwealth of
20 moneys that may have been transferred or advanced therefrom
21 to any fund established by this chapter or of any moneys that
22 may have expended therefrom for or in connection with any
23 project authorized by this chapter.

24 (10) The administrative cost to the local government
25 unit acting as a coapplicant to owners of private dams or to
26 private lake associations.

27 "Dam removal, restoration and repair project." The removal,
28 repair, restoration, construction, reconstruction or demolition
29 of dams, bulkheads, retention or detention basins or other
30 structures that impound water for water supply purposes, flood

1 control, recreation, wildlife habitat or fire protection.

2 "Department." The Department of Environmental Protection of
3 the Commonwealth.

4 "Government securities." Any bonds or other obligations that
5 as to principal and interest constitute direct obligations of or
6 are unconditionally guaranteed by the United States of America,
7 including obligations of any Federal agency, to the extent those
8 obligations are unconditionally guaranteed by the United States
9 of America, and any certificates or any other evidences of an
10 ownership interest in those obligations of or unconditionally
11 guaranteed by the United States of America or in specified
12 portions that may consist of the principal of or the interest on
13 those obligations.

14 "High hazard dam." A dam so located as to endanger populated
15 areas downstream by its failure.

16 "High hazard unsafe dam." A dam that is both a high hazard
17 and an unsafe dam.

18 "Local government unit." A county or a municipality, or any
19 agency, authority, board, commission or other instrumentality
20 thereof, any two or more counties or municipalities operating
21 jointly through an intergovernmental cooperation agreement
22 permitted by law or any agency, authority, board, commission or
23 other instrumentality thereof, and any other local or regional
24 entity created by the General Assembly as a political
25 subdivision of the Commonwealth, or any agency, authority, board
26 or commission or other instrumentality thereof.

27 "Secretary." The Secretary of Environmental Protection of
28 the Commonwealth.

29 "Unsafe dam." A dam designated by the Department of
30 Environmental Protection with deficiencies of such a nature that

1 if not corrected, the deficiencies could cause a failure of the
2 dam with subsequent loss of lives or substantial property
3 damage.

4 § 6702. Authorization of indebtedness.

5 (a) General rule.--Bonds of the Commonwealth are authorized
6 to be issued in the aggregate principal amount of \$150,000,000,
7 as provided in this chapter, for the purposes of financing the
8 costs of dam removal, restoration and repair projects with
9 priority given to unsafe high hazard dams.

10 (b) Allocation.--Of the total principal amount authorized
11 pursuant to subsection (a):

12 (1) Fifty million dollars is allocated to the department
13 to finance the costs of State dam removal, restoration and
14 repair of State-owned dams.

15 (2) One hundred million dollars is allocated to the
16 department for the purpose of providing loans or other forms
17 of assistance other than full or matching grants to owners of
18 private dams, as coapplicants with local government units or
19 to local government units that own dams to finance the cost
20 of dam removal, restoration and repair projects undertaken by
21 or on behalf of the owners of dams.

22 (c) Use of loans.--Any loan authorized under this section
23 shall include up to 100% of the cost of a dam removal,
24 restoration and repair project.

25 (d) Loan terms.--A loan made to a local government unit that
26 owns dams or to an owner of a lake or stream with a local
27 government unit as coapplicant from the Dam Project Revolving
28 Loan Fund shall bear interest of not more than 2% per year,
29 shall be for a term of 20 years and shall be made in accordance
30 with criteria for other programs established by the department.

1 (e) Loan agreement.--A loan authorized under this section
2 shall be provided under the terms and conditions set forth in a
3 written loan agreement between the department and the person or
4 entity receiving the loan.

5 (f) Coapplicants required.--Loans awarded under this section
6 to owners of private dams shall require local government units
7 to act as coapplicants. The cost of payment of the principal and
8 interest on any loan made to the owner of a private dam as a
9 coapplicant with a local government unit shall be assessed, in
10 the same manner as provided for the assessment of local
11 improvements generally under the law, against the real estate
12 benefited thereby in proportion to and not in excess of the
13 benefits conferred, and such assessments shall bear interest and
14 penalties from the same time and at the same rate as assessments
15 for local improvements in the municipality where they are
16 imposed, and from the date of confirmation, shall be a first
17 lien upon the real estate assessed to the same extent and be
18 enforced and collected in the same manner as assessments for
19 local improvements.

20 (g) Administration.--The department shall administer the
21 program authorized pursuant to this section in accordance with
22 criteria for existing programs established under the law. The
23 department shall notify every local government unit and dam
24 owner of the availability of and the criteria for qualifying and
25 obtaining loans or other forms of assistance under the program.

26 (h) Loan payments to be deposited into fund.--Payments of
27 principal and interest on loans made from the Dam Project
28 Revolving Loan Fund shall be returned to that fund for use for
29 any authorized purpose to which moneys in the fund may be used.
30 § 6703. (Reserved).

1 § 6704. General requirements of bonds.

2 The bonds authorized under this chapter shall be serial
3 bonds, term bonds or a combination thereof and shall be known as
4 Dam Project Bonds. They shall be issued from time to time as the
5 issuing officials shall determine and may be issued in coupon
6 form, fully registered form or book-entry form. The bonds may be
7 subject to redemption prior to maturity and shall mature and be
8 paid not later than 35 years from the respective dates of their
9 issuance.

10 § 6705. Issuing officials.

11 The Governor, State Treasurer and Auditor General or any two
12 of these officials shall carry out the provisions of this
13 chapter relating to the issuance of bonds and shall determine
14 all matters in connection therewith, subject to the provisions
15 of this chapter. If an issuing official is absent from this
16 Commonwealth or incapable of acting for any reason, the powers
17 and duties of that issuing official shall be exercised and
18 performed by the person authorized by law to act in an official
19 capacity in the place of that issuing official.

20 § 6706. Nature of bonds.

21 Bonds issued in accordance with the provisions of this
22 chapter shall be direct obligations of the Commonwealth, and the
23 faith and credit of the Commonwealth are pledged for the payment
24 of the interest and redemption premium thereon, if any, when
25 due, and for the payment of the principal at maturity or earlier
26 redemption date. The principal of and interest on the bonds
27 shall be exempt from taxation by the Commonwealth or by any
28 county, municipality or other taxing entity of the Commonwealth.

29 § 6707. Signature on bonds.

30 The bonds shall be signed in the name of the Commonwealth by

1 means of the manual or facsimile signature of the Governor under
2 the Great Seal of the Commonwealth, which seal may be by
3 facsimile or by way of any other form of reproduction on the
4 bonds, and attested by the manual or facsimile signature of the
5 Secretary of State and shall be countersigned by the facsimile
6 signature of the State Treasurer and may be manually
7 authenticated by an authenticating agent or bond registrar, as
8 the issuing official shall determine. Interest coupons, if any,
9 attached to the bonds shall be signed by the facsimile signature
10 of the State Treasurer. The bonds may be issued notwithstanding
11 that an official signing them or whose manual or facsimile
12 signature appears on the bonds or coupons has ceased to hold
13 office at the time of issuance or at the delivery of the bonds
14 to the purchaser thereof.
15 § 6708. Recitation on bonds.

16 (a) General rule.--The bonds shall recite that they are
17 issued for the purposes set forth in this chapter, that they are
18 issued pursuant to this chapter, that this chapter was submitted
19 to the people of this Commonwealth at the general election and
20 that this chapter was approved by a majority of the legally
21 qualified voters of this Commonwealth voting thereon at the
22 election. This recital shall be conclusive evidence of the
23 authority of the Commonwealth to issue the bonds and their
24 validity. Any bonds containing this recital shall, in any suit,
25 action or proceeding involving their validity, be conclusively
26 deemed to be fully authorized by this chapter and to have been
27 issued, sold, executed and delivered in conformity with this
28 chapter and with all other provisions of law applicable to this
29 chapter and shall be incontestable for any cause.

30 (b) Form.--The bonds shall be issued in those denominations

1 and in the form or forms, whether coupon, fully registered or
2 book-entry, and with or without provisions for
3 interchangeability thereof, as may be determined by the issuing
4 officials.

5 § 6709. Series of bonds.

6 When the bonds are issued from time to time, the bonds of
7 each issue shall constitute a separate series to be designated
8 by issuing officials. Each series of bonds shall bear such rate
9 or rates of interest as may be determined by the issuing
10 officials, which interest shall be payable semiannually except
11 that the first and last interest periods may be longer or
12 shorter in order that intervening semiannual payments may be at
13 convenient dates.

14 § 6710. Sale of bonds.

15 The bonds shall be issued and sold at the price or prices and
16 under the terms, conditions and regulations as the issuing
17 officials may prescribe, after notice of the sale, published at
18 least once in at least three newspapers published in this
19 Commonwealth, and at least once in a publication carrying
20 municipal bond notices and devoted primarily to financial news,
21 published in this Commonwealth, the first notice to appear at
22 least five days prior to the day of bidding. The notice of sale
23 may contain a provision to the effect that any bid in pursuance
24 thereof may be rejected. In the event of rejection or failure to
25 receive any acceptable bid, the issuing officials, at any time
26 within 60 days from the date of the advertised sale, may sell
27 the bonds at a private sale at such price or prices under the
28 terms and conditions as the issuing officials may prescribe. The
29 issuing officials may sell all or part of the bonds of any
30 series as issued to any State fund or to the Federal Government

1 or any agency thereof, at a private sale, without advertisement.

2 § 6711. Temporary bonds.

3 Until permanent bonds are prepared, the issuing officials may
4 issue temporary bonds in the form and with those privileges as
5 to their registration and exchange for permanent bonds as may be
6 determined by the issuing officials.

7 § 6712. Dam Project Fund.

8 The proceeds from the sale of bonds used to provide
9 assistance other than full or matching grants to owners of dams
10 for dam removal, restoration and repair projects or State dam
11 removal, restoration and repair projects shall be paid to the
12 State Treasurer and be held by the State Treasurer in a separate
13 fund, and be deposited in such depositories as may be selected
14 by the State Treasurer to the credit of the fund, which fund
15 shall be known as the Dam Project Fund.

16 § 6713. Dedication of funds.

17 (a) General rule.--The moneys in the Dam Project Fund are
18 specifically dedicated and shall be applied to the cost of
19 assistance, other than full or matching grants, to owners of
20 dams for dam removal, lakes or streams or private lake
21 associations for dam removal, restoration and repair projects or
22 State dam removal, restoration and repair projects as set forth
23 in section 6702 (relating to authorization of indebtedness).
24 However, no moneys in the fund shall be expended for those
25 purposes except as otherwise authorized by this chapter without
26 the specific appropriation provided for in this chapter. Any act
27 appropriating moneys from the Dam Project Fund shall identify
28 the project to be funded by the moneys.

29 (b) Transfer of moneys.--At any time prior to the issuance
30 and sale of bonds under this chapter, the State Treasurer may

1 transfer from any available moneys in any fund of the State
2 Treasury to the credit of the Dam Project Fund those sums as the
3 State Treasurer may deem necessary. The sums so transferred
4 shall be returned to the same fund of State Treasury by the
5 State Treasurer from the proceeds of the sale of the first issue
6 of bonds.

7 (c) Investments.--Pending their application to the purposes
8 provided in this chapter, the moneys in the Dam Project Fund may
9 be invested and reinvested as are other trust funds in the
10 custody of the State Treasurer, in the manner provided by law.
11 Net earnings received from the investment or deposit of moneys
12 in the Dam Project Fund shall be paid into the General Fund.

13 § 6714. Revolving loan fund.

14 The proceeds from the sale of bonds used to provide loans to
15 owners of dams for dam removal, lakes or streams for dam
16 removal, restoration and repair projects shall be paid to the
17 State Treasurer and be held by the State Treasurer in a separate
18 fund and be deposited in such depositories as may be selected by
19 the State Treasurer to the credit of the fund, which fund shall
20 be known as the Dam Project Revolving Loan Fund.

21 § 6715. Use of revolving loan fund.

22 (a) General rule.--The moneys in the Dam Project Revolving
23 Loan Fund are specifically dedicated and shall be applied to the
24 cost of making low-interest loans to owners of dams for dam
25 removal, lakes or streams for dam removal, restoration and
26 repair projects, as set forth in section 6702 (relating to
27 authorization of indebtedness). However, no moneys in the fund
28 shall be expended for those purposes except as otherwise
29 authorized by this chapter without the specific appropriation
30 thereof, but bonds may be issued as provided in this chapter.

Any act appropriating moneys from the Dam Project Revolving Loan Fund shall identify the project to be funded by the moneys.

(b) Term of loans.--A loan issued from the Dam Project Revolving Loan Fund shall be for a term as determined by the secretary not to exceed 20 years and at an interest rate determined by the secretary not to exceed 2% per year. The terms of any loan agreement shall be approved by the State Treasurer. Any loan made from the Dam Project Revolving Loan Fund shall be awarded pursuant to section 6702 based upon the criteria and procedures established for existing programs under the law, except that no matching funds shall be required of loan applicants.

(c) Transfer of moneys.--At any time prior to the issuance and sale of bonds under this chapter, the State Treasurer may transfer any available moneys in any fund of the State Treasury to the credit of the Dam Project Revolving Loan Fund those sums as the State Treasurer may deem necessary. The sums so transferred shall be returned to the same fund of the State Treasury by the State Treasurer from the proceeds of the sale of the first issue of bonds.

(d) Investments.--Pending their application to the purposes provided in this chapter, the moneys in the Dam Project Revolving Loan Fund may be invested and reinvested as are other trust funds in the custody of the State Treasurer, in the manner provided by law. All repayments of loans made pursuant to this chapter and interest thereon shall be deposited in the Dam Project Revolving Loan Fund. Earnings received from moneys in the fund shall be credited to the fund.

§ 6716. (Reserved).

§ 6717. (Reserved).

1 § 6718. New bonds and coupons.

2 If any coupon bond, coupon or registered bond is lost,
3 mutilated or destroyed, a new bond or coupon shall be executed
4 and delivered of like tenor, in substitution for the lost,
5 mutilated or destroyed bond or coupon, upon the owner furnishing
6 to the issuing officials evidence satisfactory to them of the
7 loss, mutilation or destruction of the bond or coupon, the
8 ownership thereof, and security, indemnity and reimbursement for
9 expenses connected therewith, as the issuing officials may
10 require.

11 § 6719. Application of accrued interest.

12 The accrued interest, if any, received upon the sale of the
13 bonds shall be applied to the discharge of a like amount of
14 interest upon the bonds when due. Any expense incurred by the
15 issuing officials for advertising, engraving, printing,
16 clerical, authenticating, registering, legal or other services
17 necessary to carry out the duties imposed upon them by the
18 provisions of this chapter shall be paid from the proceeds of
19 the sale of the bonds by the State Treasurer, upon the warrant
20 of the Auditor General, in the same manner as other obligations
21 of the Commonwealth are paid.

22 § 6720. Maturity of bonds.

23 Bonds of each series issued under this chapter shall mature,
24 including any sinking fund redemptions, not later than the 35th
25 year from the date of issue of that series, and in amounts as
26 shall be determined by the issuing officials. The issuing
27 officials may reserve to the Commonwealth by appropriate
28 provision in the bonds of any series the power to redeem any of
29 the bonds prior to maturity at the price or prices and upon the
30 terms and conditions as may be provided in the bonds.

1 § 6721. Referendum.

2 (a) Question.--The question of incurring indebtedness under
3 this chapter shall be submitted to the electors at the next
4 primary, municipal or general election following the effective
5 date of this section.

6 (b) Certification.--The Secretary of the Commonwealth shall
7 certify the form of the question under subsection (c) to the
8 county boards of elections.

9 (c) Form of question.--The question shall be substantially
10 in the following form:

11 Do you favor the issuance of debt in the amount of
12 \$_____ for the purposes of providing financing in the
13 form of loans for the removal, restoration and repair of
14 dams.

15 (d) Election.--The election shall be conducted at the next
16 occurring general or municipal election following the effective
17 date of this section, in accordance with the act of June 3, 1937
18 (P.L.1333, No.320), known as the Pennsylvania Election Code,
19 except that the time limits for advertisement of notice of the
20 election may be waived as to the question.

21 (e) Proceeds.--Proceeds of borrowing shall be deposited as
22 provided under this chapter.

23 Section 2. This act shall take effect in 60 days.