

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1490 Session of 2017

INTRODUCED BY TURZAI, READSHAW, CALTAGIRONE, D. COSTA, P. COSTA, DEASY, ENGLISH, EVANKOVICH, KAUFFMAN, KORTZ, KULIK, MILLARD, MUSTIO, ORTITAY, QUIGLEY, WARD, WHEELAND AND MAHER, JUNE 2, 2017

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 5, 2017

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, providing for water and sewer
3 authorities in cities of the second class.

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

6 Section 1. Title 66 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 32

9 WATER AND SEWER AUTHORITIES

10 IN CITIES OF THE

11 SECOND CLASS

12 Sec.

13 3201. Definitions.

14 3202. Application of provisions of title.

15 3203. Prior tariffs.

16 3204. Tariff filing and compliance plan.

17 3205. Maintenance, repair and replacement of facilities and

1 equipment.

2 3206. Duties of Office of Consumer Advocate and Office of Small
3 Business Advocate.

4 3207. Commission assessment.

5 3208. Power of authority.

6 3209. Proprietary information of authority.

7 § 3201. Definitions.

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

11 "Authority." A body politic or corporate established by a
12 city of the second class under 53 Pa.C.S. Ch. 56 (relating to
13 municipal authorities), under the former act of June 28, 1935
14 (P.L.463, No.191), known as the Municipality Authorities Act of
15 one thousand nine hundred and thirty-five, or under the former
16 act of May 2, 1945 (P.L.382, No.164), known as the Municipality
17 Authorities Act of 1945, which owns or operates equipment or
18 facilities for any of the following purposes:

19 (1) Diverting, developing, pumping, impounding,
20 distributing or furnishing water to customers for
21 compensation.

22 (2) Wastewater collection, treatment or disposal to
23 customers for compensation.

24 § 3202. Application of provisions of title.

25 ~~(a) Application. Beginning on January 1, 2018, the~~ <--

26 ~~(A) APPLICATION.--THE FOLLOWING APPLY:~~ <--

27 (1) BEGINNING ON JANUARY 1, 2018, THE
28 provisions of this title, except Chapters 11 (relating to
29 certificates of public convenience), ~~19 (relating to securities~~ <--
30 and obligations) and 21 (relating to relations with affiliated

1 interests), shall apply to the service of an authority in the <--
2 same manner as the service of a public utility. <--

3 (2) NOTWITHSTANDING PARAGRAPH (1), SECTION 1103 SHALL <--
4 APPLY TO AN AUTHORITY THAT SEEKS TO ACQUIRE, CONSTRUCT OR
5 BEGIN TO OPERATE ANY EQUIPMENT, PLANT OR OTHER FACILITY FOR
6 THE RENDERING OF SERVICE BEYOND THE AREAS SERVED AS OF THE
7 EFFECTIVE DATE OF THIS SECTION.

8 (b) Exception.--Upon request of an authority, the commission
9 may suspend or waive the applicability of any provision of this
10 title to the authority, except for this section.

11 § 3203. Prior tariffs.

12 (a) Service.--An authority shall continue to provide service
13 to the authority's customers in accordance with a prior tariff
14 until the effective date of a commission's order approving a new
15 tariff. If the effective date of a commission's order approving
16 a new tariff has been stayed by a court of competent
17 jurisdiction, the prior tariff shall remain in effect until the
18 stay has been dissolved.

19 (b) Disputes or conflicts.--In accordance with section 3208
20 (relating to power of authority), the commission shall resolve
21 all disputes or conflicts arising under a prior tariff.

22 (c) Definition.--As used in this section, the term "prior
23 tariff" shall mean the tariff, rate schedule and riders
24 incorporated into the tariff, including the bylaws, terms and
25 conditions or other documents setting forth the rates and terms
26 and conditions of service provided by an authority on the date
27 the commission assumes jurisdiction over the authority.

28 § 3204. Tariff filing and compliance plan.

29 (a) Filing.--An authority shall file an initial A tariff AND <--
30 SUPPORTING DATA with the commission within 60 days of the

1 effective date of this section. The commission shall conduct an <--
2 initial A rate proceeding in accordance with the commission's <--
3 procedures for initial tariff filings. To the extent practical, <--
4 public hearings on the initial tariff filing shall be held <--
5 within the boundaries of an authority.

6 (b) Compliance plan.--The compliance plan WITHIN 120 DAYS OF <--
7 THE EFFECTIVE DATE OF THIS SECTION, AN AUTHORITY SHALL FILE A
8 COMPLIANCE PLAN WITH THE COMMISSION WHICH shall include
9 provisions to convert BRING an authority's existing information <--
10 technology, accounting, billing, collection and other operating
11 systems and procedures to comply INTO COMPLIANCE with the <--
12 requirements applicable to jurisdictional water and wastewater
13 utilities under this title and applicable rules, regulations and
14 orders of the commission. THE COMPLIANCE PLAN SHALL ALSO INCLUDE <--
15 A LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN IN ACCORDANCE WITH
16 SUBCHAPTER B OF CHAPTER 13 (RELATING TO DISTRIBUTION SYSTEMS).

17 (c) Costs. The following apply: <--

18 (1) The commission shall examine the costs and
19 administrative burdens of converting existing systems and
20 procedures of an authority to meet the requirements of this
21 title.

22 (2) The commission shall conduct an analysis of a
23 conversion under paragraph (1) in order to assess whether the
24 costs of the conversion outweigh the benefits. If the
25 commission determines that the costs outweigh the benefits,
26 the commission may waive any provision of this title or the
27 commission's regulations or orders.

28 (3) If the commission determines the benefits outweigh
29 the costs, the commission shall permit a full recovery of the
30 costs by an authority.

1 (C) COMMISSION REVIEW.--THE COMMISSION SHALL REVIEW THE
 2 COMPLIANCE PLAN FILED BY AN AUTHORITY UNDER SUBSECTION (B) AND
 3 MAY ORDER THE AUTHORITY TO FILE A NEW OR REVISED COMPLIANCE PLAN
 4 IF THE COMPLIANCE PLAN FAILS TO ADEQUATELY ENSURE AND MAINTAIN
 5 THE PROVISION OF ADEQUATE, EFFICIENT, SAFE, RELIABLE AND
 6 REASONABLE SERVICE.

7 § 3205. Maintenance, repair and replacement of facilities and
 8 equipment.

9 (a) Authorization.--The commission may require an authority
 10 to maintain, repair and replace facilities and equipment used to
 11 provide services under this chapter to ensure that the equipment
 12 and facilities comply with section 1501 (relating to character
 13 of service and facilities).

14 (b) Petition.--An authority may petition the commission for
 15 the establishment of a distribution system improvement charge.
 16 An authority which establishes a distribution system improvement
 17 charge shall comply with all applicable requirements of
 18 Subchapter B of Chapter 13 (relating to distribution systems).

19 § 3206. Duties of Office of Consumer Advocate and Office of
 20 Small Business Advocate.

21 (a) Office of Consumer Advocate.--The Office of Consumer
 22 Advocate shall represent the interests of consumers as a party,
 23 or otherwise participate for the purpose of representing the
 24 interests of consumers, in any matter properly before the
 25 commission relating to an authority.

26 (b) Office of Small Business Advocate.--The Office of Small
 27 Business Advocate shall represent the interests of consumers as
 28 a party, or otherwise participate for the purpose of
 29 representing the interests of small business consumers, in any
 30 matter properly before the commission relating to an authority.

1 (c) Authorization.--In addition to any other powers
2 conferred upon the Office of Consumer Advocate or Office of
3 Small Business Advocate, the Office of Consumer Advocate or
4 Office of Small Business Advocate may represent an interest of
5 consumers presented to it for consideration, in writing, by a
6 substantial number of individuals who make, direct, use or are
7 the recipients of a product or service provided by an authority.
8 § 3207. Commission assessment.

9 (a) Sworn statement.--In order to allow the commission to
10 carry out the commission's duties under this chapter, the
11 president of an authority shall file, within 60 days of the
12 effective date of this section AND ON OR BEFORE MARCH 31 OF EACH <--
13 YEAR THEREAFTER, a sworn statement which specifies the
14 authority's gross intrastate revenues for the immediately
15 preceding fiscal year in the same manner as required under
16 section 510(b) (relating to assessment for regulatory expenses
17 upon public utilities).

18 (b) Billing.--The commission shall make an estimate based on
19 the gross intrastate revenues specified under subsection (a) in
20 accordance with the procedures set forth in section 510(b) and
21 shall impose an assessment on an authority based on the
22 authority's proportional share of the commission's expenses
23 RELATING TO THE COMMISSION'S UTILITY GROUP in accordance with <--
24 section ~~510(b)(4)~~ 510(B). An authority shall pay an assessment <--
25 on an annual basis in accordance with section 510.

26 § 3208. Power of authority.

27 (a) Power.--Nothing in this chapter shall be construed to
28 rescind or limit the power of a city of the second class to
29 establish an authority or determine the powers, functions, <--
30 budget or activities of an authority.

1 (b) Audits.--Nothing in this chapter shall be construed to
2 limit or prevent a city official of a city of the second class
3 from conducting audits and examinations of the financial affairs
4 of an authority in accordance with the city official's duties.
5 § 3209. Proprietary information of authority.

6 Proprietary information, trade secrets and competitively
7 sensitive information of an authority shall not be public
8 records under the act of February 14, 2008 (P.L.6, No.3), known
9 as the Right-to-Know Law, and shall not be subject to mandatory
10 public disclosure. Nothing in this ~~section~~ CHAPTER shall be <--
11 construed to exempt an authority from providing information to
12 the commission as specified under sections 501 (relating to
13 general powers), 504 (relating to reports by public utilities),
14 505 (relating to duty to furnish information to commission;
15 cooperation in valuing property) and 506 (relating to inspection
16 of facilities and records) OR ANY OTHER PROVISION OF THIS TITLE <--
17 WHICH REQUIRES INFORMATION TO BE PROVIDED TO THE COMMISSION.

18 Section 2. All acts or parts of acts are repealed insofar as
19 they are inconsistent with this act.

20 Section 3. This act shall take effect as follows:

21 (1) The addition of 66 Pa.C.S. § 3207 shall take effect
22 in 60 days.

23 (2) The remainder of this act shall take effect
24 immediately.