

**WATER AND SEWER SYSTEMS ASSISTANCE ACT - ENACTMENT**

**Act of Jul. 9, 2008, P.L. 915, No. 64**

**Cl. 71**

AN ACT

Authorizing the incurring of indebtedness, with the approval of the electors, of \$400,000,000 for the acquisition, repair, construction, reconstruction, rehabilitation, extension, expansion and improvement of water supply and sewage treatment systems; and providing for the powers and duties of the Pennsylvania Infrastructure Investment Authority.

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

Section 1. Short title.

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

Section 2. Legislative findings.

The General Assembly finds and declares as follows:

(1) Pennsylvania has an estimated 2,200 drinking water systems and 1,060 wastewater systems.

(2) Drinking water and wastewater treatment systems protect public health and the environment and are responsible for cleaning and treating waters of this Commonwealth.

(3) Changing Federal and State regulations relative to the treatment of drinking water and wastewater are creating financial problems for drinking water and wastewater treatment systems.

(4) Many of the drinking water and wastewater treatment systems must manage aging infrastructure, and the maintenance and replacement costs are estimated to be in excess of \$18,000,000,000.

(5) According to the Environmental Protection Agency, Pennsylvania ranks seventh in infrastructure financing needs for water infrastructure.

(6) Additional funding sources are needed if Pennsylvania is to have a sustainable water infrastructure in the future.

(7) The Governor signed executive order 2008-02, creating a water infrastructure task force to ensure that Pennsylvania maintains a sustainable drinking water and wastewater infrastructure.

(8) It is beyond the financial means of local ratepayers to fund all the improvements that are needed for a sustainable drinking water and wastewater infrastructure.

Section 3. Definitions.

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

"Authority." The Pennsylvania Infrastructure Investment Authority.

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

"Eligible cost." 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 a project.

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

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

"Nutrient." Nitrogen or phosphorus.

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

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

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

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

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

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

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

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

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

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

Section 4. Approval of debt incurrence by electors.

The question of incurring indebtedness of \$400,000,000 for grants and loans 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 a project shall be submitted to the electors at the next primary, municipal or general election following the effective date of this section.

Section 5. Certification.

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

Section 6. Form of question.

The question under section 4 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 7. 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 8. Proceeds.

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

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

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

(d) Grant limitations.--

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

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

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

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

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

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

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

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

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

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

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

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

(e) Construction.--Nothing in this act shall prohibit the use of funds allocated under the provisions of this act for projects involving the purchase or trading of nutrient credits. Section 9. Powers and duties of board.

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

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

(1) Develop forms for the applications of grants and

loans.

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

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

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

Section 10. Effective date.

This act shall take effect immediately.