

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,
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SAINATO, JANUARY 29, 2003

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 6, 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)(24)~~ 5607(D)(17), (24), (30), (32) <—
7 and (33) of Title 53 of the Pennsylvania Consolidated Statutes
8 are amended 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:

15 * * *

1 (17) TO DO ALL ACTS AND THINGS NECESSARY OR CONVENIENT <—
2 FOR THE PROMOTION OF ITS BUSINESS AND THE GENERAL WELFARE OF
3 THE AUTHORITY TO CARRY OUT THE POWERS GRANTED TO IT BY THIS
4 CHAPTER OR OTHER LAW[.], INCLUDING, BUT NOT LIMITED TO, THE
5 ADOPTION OF REASONABLE RULES AND REGULATIONS THAT APPLY TO
6 WATER AND SEWER LINES LOCATED ON A PROPERTY OWNED OR LEASED
7 BY A CUSTOMER AND TO REFER FOR PROSECUTION AS A SUMMARY
8 OFFENSE ANY VIOLATION DEALING WITH RULES AND REGULATIONS
9 RELATING TO WATER AND SEWER LINES LOCATED ON A PROPERTY OWNED
10 OR LEASED BY A CUSTOMER.

11 * * *

12 (24) To charge enumerated fees to property owners who
13 desire to or are required to connect to the authority's sewer
14 or water system. Fees shall be based upon the duly adopted
15 fee schedule which is in effect at the time of payment and
16 shall be payable at the time of application for connection or
17 at a time to which the property owner and the authority
18 agree. In the case of projects to serve existing development,
19 fees shall be payable at a time to be determined by the
20 authority. An authority may require that no capacity be
21 guaranteed for a property owner until the tapping fees have
22 been paid or secured by other financial security. The fees
23 shall be in addition to any charges assessed against the
24 property in the construction of a sewer or water main by the
25 authority under paragraphs (21) and (22) as well as any other
26 user charges imposed by the authority under paragraph (9)
27 [but], EXCEPT THAT NO RESERVATION OF CAPACITY FEE OR OTHER <—
28 SIMILAR CHARGE SHALL BE IMPOSED OR COLLECTED FROM A PROPERTY
29 OWNER WHO HAS APPLIED FOR SERVICE UNLESS THE CHARGE IS BASED
30 ON DEBT AND FIXED OPERATING EXPENSES. A RESERVATION OF

1 CAPACITY FEE OR OTHER SIMILAR CHARGE MAY NOT EXCEED 60% OF
2 THE AVERAGE SANITARY SEWER BILL FOR A RESIDENTIAL CUSTOMER IN
3 THE SAME SEWER SERVICE AREA FOR THE SAME BILLING PERIOD. ANY
4 AUTHORITY OPTING TO COLLECT A RESERVATION OF CAPACITY FEE OR
5 OTHER SIMILAR CHARGE MAY NOT COLLECT THE TAPPING FEE UNTIL
6 THE TIME AS THE BUILDING PERMIT FEE IS DUE. TAPPING FEES
7 shall not include costs included in the calculation of [such]
8 any other fees[.], assessments, rates or other charges
9 imposed under this act.

10 (i) The fees may include any of the following [fee
11 components] if they are separately set forth in a
12 resolution adopted by the authority [to establish these
13 fees]:

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

26 (B) Customer facilities fee. [It may] A customer
27 facilities fee shall not exceed an amount based upon
28 the actual cost of facilities serving the connected
29 property from the property line or curb stop to the
30 proposed dwelling or building to be served. The fee

1 shall be chargeable only if the authority installs
2 the customer facilities. In lieu of payment of the
3 customer facilities fee, an authority may require the
4 construction of those facilities by the property
5 owner who requests customer facilities. In the case
6 of water service, the fee may include the cost of a
7 water meter and installation if the authority
8 provides or installs the water meter. If the property
9 connected or to be connected with the sewer system of
10 the authority is not equipped with a water meter, the
11 authority may install a meter at its own cost and
12 expense. If the property is supplied with water from
13 the facilities of a public water supply agency, the
14 authority shall not install a meter without the
15 consent and approval of the public water supply
16 agency.

17 (C) Tapping fee. [It may] A tapping fee shall
18 not exceed an amount based upon some or all of the
19 following [fee components if they are] parts which
20 shall be separately set forth in the resolution
21 adopted by the authority to establish these fees. In
22 lieu of payment of this fee, an authority may require
23 the construction and dedication of only such
24 capacity, distribution-collection or special purpose
25 facilities necessary to supply service to the
26 property owner or owners.

27 (I) Capacity part. The [fee may] capacity
28 part shall not exceed an amount that is based
29 upon the cost of capacity-related facilities,
30 including, but not limited to, source of supply,

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

1 exclusively serving new customers. [Under all
2 cost approaches, the cost of capacity-related
3 facilities shall be reduced by the amount of
4 grants or capital contributions which have
5 financed them. The capacity part of the tapping
6 fee per unit of capacity required by the new
7 customer may not exceed the cost of the
8 facilities divided by the design capacity.] The
9 outstanding debt shall be subtracted for all
10 subsequent revisions of the tapping fee, except
11 as specifically provided herein. For tapping fees
12 imposed for connection to facilities exclusively
13 serving new customers, an authority may, no more
14 frequently than annually and without updating the
15 historical cost of or subtracting the outstanding
16 debt related to such facilities, increase the
17 tapping fee by an amount calculated by
18 multiplying such tapping fee by the weighted
19 average interest rate on the debt related to such
20 facilities applicable since the last increase of
21 the tapping fee for such facilities. The capacity
22 part of the tapping fee per unit of design
23 capacity of said facilities required by the new
24 customer shall not exceed the total cost of the
25 facilities as described herein divided by the
26 system design capacity of all such facilities.
27 Where the cost of facilities to be constructed or
28 acquired in the future are included in the
29 calculation of the capacity part as permitted
30 herein, the total cost of the facilities shall be

1 divided by the system design capacity plus the
2 additional capacity to be provided by the
3 facilities to be constructed or acquired in the
4 future. An authority may allocate its capacity-
5 related facilities to different sections or
6 districts of its system and may impose additional
7 capacity-related tapping fees on specific groups
8 of existing customers such as commercial and
9 industrial customers in conjunction with
10 additional capacity requirements of those
11 customers. [In the case of] The cost of
12 facilities to be constructed or acquired[, the]
13 in the future that will increase the system
14 design capacity may be included in the
15 calculation of the capacity part, subject to the
16 provisions of clause (VI). The cost of such
17 facilities shall not exceed their reasonable
18 estimated cost set forth in a duly adopted annual
19 budget or a five-year capital improvement plan[,
20 and the authority in furtherance of the
21 facilities must take any action as follows:]. The
22 authority shall have taken at least two of the
23 following actions toward construction of the
24 facilities:

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

27 (b) [enter] entered into a contract
28 obligating the authority to construct or pay
29 for the cost of construction of the
30 facilities or its portion thereof in the

1 event that multiple parties are constructing
2 the facilities;

3 (c) [obtain] obtained a permit for the
4 facilities;

5 (d) [spend substantial sums or resources
6 in furtherance of the facilities;] obtained
7 title to or condemned additional real estate
8 upon which the facilities will be
9 constructed;

10 (e) [enter] entered into a contract
11 obligating the authority to purchase or
12 acquire facilities owned by another;

13 (f) [prepare] prepared an engineering
14 feasibility study specifically related to the
15 facilities, which study recommends the
16 construction of the facilities within a five-
17 year period; [or]

18 (g) [enter] entered into a contract for
19 the design or construction of the
20 facilities[.] or adopted a budget which
21 includes the use of in-house resources for
22 the design or construction of the facilities.

23 (II) Distribution or collection part. The
24 [fee] distribution or collection part may not
25 exceed an amount based upon the cost of
26 distribution or collection facilities required to
27 provide service, such as mains, hydrants and
28 pumping stations. Facilities may only include
29 those that provide existing service [or those
30 that will provide future service]. The cost of

1 [existing] distribution or collections
2 facilities, excluding facilities contributed to
3 the authority by any person, government or
4 agency, or portions of facilities paid for with
5 contributions or grants other than tapping fees,
6 shall be based upon [their replacement cost or
7 upon] historical cost trended to current cost
8 using published cost indexes or upon the
9 historical cost plus interest and other financing
10 fees paid on [bonds] debt financing such
11 facilities. To the extent that historical cost is
12 not ascertainable, tapping fees may be based upon
13 an engineer's reasonable written estimate of
14 replacement cost. Such written estimate shall be
15 based upon and include an itemized listing of
16 those components of the actual facilities for
17 which historical cost is not ascertainable. [In
18 the case of existing facilities, outstanding]
19 Outstanding debt related to the facilities shall
20 be subtracted from the cost, [but debt may not be
21 subtracted which is attributable] except when
22 calculating the initial tapping fee imposed for
23 connection to facilities exclusively serving new
24 customers. [In the case of facilities to be
25 constructed or acquired, the cost shall not
26 exceed their reasonable estimated cost. Under all
27 cost approaches, the cost of distribution or
28 collection facilities shall be reduced by the
29 amount of grants or capital contributions which
30 have financed them.] The outstanding debt shall

1 be subtracted for all subsequent revisions of the
2 tapping fee except as specifically provided
3 herein. For tapping fee imposed for connection to
4 facilities exclusively serving new customers, an
5 authority may, no more frequently than annually,
6 and without updating the historical cost of or
7 subtracting the outstanding debt related to such
8 facilities, increase such tapping fee by an
9 amount calculated by multiplying the tapping fee
10 by the weighted average interest rate on the debt
11 related to such facilities applicable since the
12 last increase of the tapping fee for such
13 facilities. The distribution or collection part
14 of the tapping fee per unit of design capacity of
15 said facilities required by the new customer
16 [may] shall not exceed the cost of the facilities
17 divided by the design capacity. An authority may
18 allocate its distribution-related or collection-
19 related facilities to different sections or
20 districts of its system and may impose additional
21 distribution-related or collection-related
22 tapping fees on specific groups of existing
23 customers such as commercial and industrial
24 customers in conjunction with additional capacity
25 requirements of those customers.

26 (III) Special purpose part. [Fees] A part
27 for special purpose facilities shall be
28 applicable only to a particular group of
29 customers or for serving a particular purpose or
30 a specific area based upon the cost of the

1 facilities, including, but not limited to,
2 booster pump stations, fire service facilities, <—
3 WATER OR SEWER MAINS, PUMPING STATIONS and
4 industrial wastewater treatment facilities.
5 [Facilities] Such facilities may include only
6 those that provide existing service [or those
7 that will provide future service]. The cost of
8 [existing] special purpose facilities, excluding
9 facilities contributed to the authority by any
10 person, government or agency, or portions of
11 facilities paid for with contributions or grants
12 other than tapping fees, shall be based upon
13 [their replacement cost or upon] historical cost
14 trended to current cost using published cost
15 indexes or upon the historical cost plus interest
16 and other financing fees paid on [bonds] debt
17 financing such facilities. [In the case of
18 existing facilities, outstanding] To the extent
19 that historical cost is not ascertainable,
20 tapping fees may be based upon an engineer's
21 reasonable written estimate of current
22 replacement cost. Such written estimate shall be
23 based upon and include an itemized listing of
24 those components of the actual facilities for
25 which historical cost is not ascertainable.
26 Outstanding debt related to the facilities shall
27 be subtracted from the cost, [but debt may not be
28 subtracted which is attributable] except when
29 calculating the initial tapping fee imposed for
30 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 special purpose facilities shall be reduced by the amount of grants or capital contributions which have financed such facilities.] The outstanding debt shall be subtracted for all subsequent revisions of the tapping fee except as specifically provided herein. For tapping fees 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 the tapping fee by an amount calculated by multiplying such 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 special purpose part of the tapping fee per unit of design capacity of such special purpose facilities required by the new customer [may] shall not exceed the cost of the facilities as described herein divided by the design capacity of the facilities. WHERE AN AUTHORITY CONSTRUCTS SPECIAL PURPOSE FACILITIES AT ITS OWN EXPENSE, THE DESIGN CAPACITY FOR THE FACILITIES MAY BE EXPRESSED IN TERMS OF THE NUMBER OF EQUIVALENT DWELLING UNITS TO BE SERVED BY THE FACILITIES. IN

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1 NO EVENT SHALL AN AUTHORITY CONTINUE TO COLLECT
2 ANY TAPPING FEE WHICH INCLUDES A SPECIAL PURPOSE
3 PART AFTER SPECIAL PURPOSE PART FEES HAVE BEEN
4 IMPOSED ON THE TOTAL NUMBER OF DESIGN CAPACITY
5 UNITS USED IN THE ORIGINAL CALCULATION OF THE
6 SPECIAL PURPOSE PART. An authority may allocate
7 its special purpose facilities to different
8 sections or districts of its system and may
9 impose additional special purpose tapping fees on
10 specific groups of existing customers such as
11 commercial and industrial customers in
12 conjunction with additional capacity requirements
13 of those customers.

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

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

27 (a) In arriving at the cost to be
28 included in the tapping fee [components], the
29 same cost [may] shall not be included in more
30 than one part of the tapping fee.

1 (b) No tapping fee may be based upon or
2 include the cost of expanding, replacing,
3 updating or upgrading facilities serving only
4 existing customers in order to meet stricter
5 efficiency, environmental, regulatory or
6 safety standards or to provide better service
7 to or meet the needs of existing customers.

8 (c) The cost used in calculating tapping
9 fees shall not include maintenance and
10 operation expenses.

11 (d) As used in this subclause,
12 "maintenance and operation expenses" are
13 those expenditures made during the useful
14 life of a sewer or water system for labor,
15 materials, utilities, equipment accessories,
16 appurtenances and other items which are
17 necessary to manage and maintain the system
18 capacity and performance and to provide the
19 service for which the system was constructed.

20 Costs or expenses to reduce or eliminate
21 groundwater infiltration or inflow may not be
22 included in the cost of facilities used to
23 calculate tapping fees unless these costs or <—
24 expenses result in an increase in system
25 design capacity.

26 (e) The EXCEPT AS OTHERWISE PROVIDED FOR <—
27 THE CALCULATION OF A SPECIAL PURPOSE PART,
28 THE design capacity required by a new
29 residential customer used in calculating
30 sewer or water tapping fees shall not exceed

an amount established by multiplying 65
gallons per capita per day FOR WATER
CAPACITY, 100 GALLONS PER CAPITA PER DAY FOR
SEWER CAPACITY FOR THE FIRST FIVE YEARS AFTER
THE EFFECTIVE DATE OF THIS SECTION AND 80
GALLONS PER 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

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1 Bureau. Alternatively, the design capacity
2 required for a new residential customer shall
3 be determined by a study, but shall not
4 exceed:

5 (i) for water capacity, the average
6 residential water consumption per
7 residential customer or for sewage
8 capacity, the average residential water
9 consumption per residential customer plus
10 ten percent. The average residential
11 water consumption shall be determined by
12 dividing the total water consumption for
13 all metered residential customers in the
14 authority's service area over at least a
15 twelve-consecutive-month period within
16 the most recent five years by the average
17 number of customers during the period; or

18 (ii) for sewer capacity, the average
19 sewage flow per residential customer
20 determined by a measured sewage flow
21 study. Such study shall be completed in
22 accordance with sound engineering
23 practices within the most recent five
24 years for the lesser of three or all
25 residential subdivisions of more than ten
26 lots which have collection systems in
27 good repair and which connected to the
28 authority's facilities within the most
29 recent five years. The study shall
30 calculate the average sewage flow per

1 residential customer in such developments
2 by measuring actual sewage flows over at
3 least twelve consecutive months at the
4 points where such developments connected
5 to the authority's sewer main.

6 (iii) All data and other information
7 considered or obtained by an authority in
8 connection with determining capacity
9 under this subsection shall be made
10 available to the public upon request.

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

1 any such challenged calculations or study
2 until such engineering certification is
3 obtained.

4 (f) An authority may use lower design
5 capacity requirements and impose lower
6 tapping fees for multifamily residential
7 dwelling than imposed on other types of
8 residential customers.

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

27 (a) the authority abandons its plan or a
28 part thereof to construct or acquire a
29 facility or facilities which are the basis
30 for such fee; or

1 (b) the facilities have not been placed
2 into service within seven years OR FOR AN <—
3 AUTHORITY WHICH PROVIDES SERVICE TO FIVE OR
4 MORE MUNICIPALITIES, THE FACILITIES HAVE NOT
5 BEEN PLACED INTO SERVICE WITHIN 15 YEARS,
6 after adoption of a resolution which imposes
7 tapping fees which are based upon facilities
8 to be constructed or acquired in the future.
9 ANY REFUND OF FEES HELD FOR 15 YEARS SHALL <—
10 INCLUDE INTEREST FOR THE PERIOD THE MONEY WAS
11 HELD.

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

15 "BOD5." The five-day biochemical-oxygen
16 demand.

17 "Design capacity." For residential
18 customers, the permitted or rated capacity of
19 facilities expressed in million gallons per day.
20 For nonresidential customers, design capacity may
21 also be expressed in pounds of BOD5 per day,
22 pounds of suspended solids per day or any other
23 capacity defining parameter that is separately
24 and specifically set forth in the permit
25 governing the operation of the system, and based
26 upon its original design as modified by those
27 regulatory agencies having jurisdiction over
28 these facilities. Additionally, for separate fire
29 service customers, the permitted or rated
30 capacity of fire service facilities may be

1 expressed in peak flows. The units of measurement
2 used to express design capacity shall be the same
3 units of measurement used to express the system
4 design capacity. Design EXCEPT AS OTHERWISE <—
5 PROVIDED FOR SPECIAL PURPOSE FACILITIES, DESIGN
6 capacity may not be expressed in terms of
7 equivalent dwelling units.

8 "Outstanding debt." The principal amount
9 outstanding of any bonds, notes, loans or other
10 form of indebtedness used to finance or refinance
11 facilities included in the tapping fee.

12 "Service line." A water or sewer line that
13 directly connects a single building or structure
14 to a distribution or collection facility.

15 "System design capacity." The design
16 capacity of the system for which the tapping fee
17 is being calculated which represents the total
18 design capacity of the treatment facility or
19 water sources.

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

1 system[.], subject to the provisions and limitations of
2 the act.

3 (iii) No authority [may] shall have the power to
4 impose a connection fee, customer facilities fee, tapping
5 fee or similar fee except as provided specifically under
6 this section.

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

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

25 * * *

26 (30) Where a sewer or water system of an authority is to
27 be extended at the expense of the owner of properties or
28 where the authority otherwise would construct customer
29 facilities referred to in paragraph (24), other than water
30 meter installation, [to allow] a property owner shall have

1 the right to construct the extension or install the customer
2 facilities himself or through a subcontractor approved by the
3 authority, which approval shall not be unreasonably withheld.
4 The authority [may] shall have the right, at its option, to
5 perform the construction itself only if the authority
6 provides the extension or customer facilities at a lower cost
7 and within the same timetable specified or proposed by the
8 property owner or his approved subcontractor. Construction by
9 the property owner shall be in accordance with an agreement
10 for the extension of the authority's system and plans and
11 specifications approved by the authority and shall be
12 undertaken only pursuant to the existing regulations,
13 requirements, rules and standards of the authority applicable
14 to such construction. Construction shall be subject to
15 inspection by an inspector authorized to approve similar
16 construction and employed by the authority during
17 construction. When a main is to be extended at the expense of
18 the owner of properties, the property owner may be required
19 to deposit with the authority, in advance of construction,
20 the authority's estimated reasonable and necessary cost of
21 reviewing plans, construction inspections, administrative,
22 legal and engineering services. The authority may require
23 that construction shall not commence until the property owner
24 has posted appropriate financial security in accordance with
25 paragraph (23). The authority may require the property owner
26 to reimburse it for reasonable and necessary expenses it
27 incurred as a result of the extension. If an independent firm
28 is employed for engineering review of the plans and the
29 inspection of improvements, reimbursement for its services
30 shall be reasonable and in accordance with the ordinary and

1 customary fees charged by the independent firm for work
2 performed for similar services in the community. The fees
3 [may] shall not exceed the rate or cost charged by the
4 independent firm to the authority when fees are not
5 reimbursed or otherwise imposed on applicants. Upon
6 completion of construction, the property owner shall dedicate
7 and the authority shall accept the extension of the
8 authority's system if dedication of facilities and the
9 installation complies with the plans, specifications,
10 regulations of the authority and the agreement. An authority
11 may provide in its regulations those facilities which, having
12 been constructed at the expense of the owner of properties,
13 the authority will require to be dedicated and which facility
14 or facilities the authority will accept as a part of its
15 system.

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

30 (ii) If, within 30 days from the date of billing,

1 the authority and the property owner cannot agree on the
2 amount of billings which are reasonable and necessary,
3 the property owner and authority shall, by mutual
4 agreement, appoint a professional of the same profession
5 or discipline licensed in Pennsylvania to review the
6 billings and make a determination as to the amount of
7 billings which is reasonable and necessary.

8 (iii) The professional appointed under clause (ii)
9 shall hear evidence and review the documentation as the
10 professional in his or her sole opinion deems necessary
11 and shall render a decision within 60 days of the billing
12 date. The property owner shall be required to pay the
13 entire amount determined in the decision immediately.

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

25 (v) The fee of the appointed professional for
26 determining the reasonable and necessary expenses shall
27 be paid by the applicant if the amount of payment
28 required in the decision is equal to or greater than the
29 original bill. If the amount of payment required in the
30 decision is less than the original bill by \$2,500 or

1 more, the authority shall pay the fee of the
2 professional. If the amount of the payment required in
3 the decision is less than the original bill by \$2,499 or
4 less, the authority and the property owner shall each pay
5 one-half of the fee of the appointed professional.

6 * * *

7 [(32) If a sewer system or water system or any part or
8 extension owned by an authority has been constructed at the
9 expense of a private person or corporation, the authority may
10 charge a tapping fee. The authority shall refund the tapping
11 fee or any part of the fee to the person or corporation who
12 paid for the construction of the sewer or water system or any
13 part or extension of it.]

14 (33) Provisions of paragraphs (30)[,] and (31) [and
15 (32)] shall apply to residential customers in a municipality
16 where the sewer service is being purchased by the
17 municipality or sewer authority from another municipality or
18 sewer authority having excess sewage capacity.

19 Section 2. Notwithstanding section 5(1) ~~and (2)~~ of this act, <—
20 this act shall apply immediately to any connection, customer
21 facilities, tapping or similar fees which are increased or
22 initially imposed subsequent to the effective date of this
23 section.

24 Section 3. Notwithstanding section 5(1) ~~and (2)~~ of this act, <—
25 the mandatory refund provisions of 53 Pa.C.S. §
26 5607(d)(24)(i)(C)(VI) applicable to tapping fees based upon
27 facilities to be constructed or acquired in the future shall
28 apply to tapping fees collected subsequent to the effective date
29 of this section, regardless of when the resolution adopting such
30 tapping fees was adopted.

1 Section 4. The provisions of 53 Pa.C.S. §
2 5607(d)(24)(i)(c)(V)(e) shall not be applicable to a municipal <—
3 authority which adopts a resolution not later than 90 days after
4 the effective date set forth in section 5(1) of this act,
5 directing the performance of a residential sewage flow study
6 pursuant to 53 Pa.C.S. § 5607(d)(24)(i)(c)(V)(e)(ii) until the
7 first occurrence of one of the following:

8 (1) 90 days after the completion of the sewage flow
9 study.

10 (2) 90 days after the abandonment of the study.

11 (3) 15 months after the effective date specified in
12 section 5(2) of this act.

13 APPLY: <—

14 (1) FOR A PERIOD OF FIVE YEARS AFTER THE EFFECTIVE DATE
15 OF THIS SECTION, TO SEWER TAPPING FEES IMPOSED BY A JOINT
16 AUTHORITY HAVING SIX OR MORE MUNICIPAL MEMBERS WHICH IS
17 PROHIBITED FROM IMPLEMENTING ANY INCREASE IN SEWER USER FEES
18 PURSUANT TO THE TERMS OF A CONTRACT EXECUTED PRIOR TO JANUARY
19 1, 2003.

20 (2) FOR A PERIOD OF FIVE YEARS AFTER THE DATE OF CLOSING
21 OF ORIGINAL FINANCING, WHEN AN AUTHORITY, IN ORDER TO SUPPORT
22 THE CONSTRUCTION OF NEW FACILITIES, USED ORIGINAL FINANCING
23 WHICH CLOSED ON OR BEFORE JANUARY 1, 2002, WHICH HAS A TERM
24 OF AT LEAST 15 YEARS AND IN WHICH TAPPING FEES WERE RELIED
25 UPON TO SUPPORT THE DEBT SERVICE ON THE FINANCING.

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

27 (1) The amendment of 53 Pa.C.S. § 5607(d)(24), (30),
28 (32) and (33) shall take effect in 180 days 18 MONTHS. <—

29 (2) Section 4 of this act shall take effect in 180 days. <—

30 (3) (2) The remainder of this act shall take effect <—

1 immediately.