

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1102 Session of 2004

INTRODUCED BY GORDNER, JUBELIRER, BRIGHTBILL, MADIGAN, WENGER, RHOADES, LEMMOND, ORIE, RAFFERTY, ERICKSON, PILEGGI, CORMAN, SCHWARTZ, C. WILLIAMS, PIPPY, EARLL, MOWERY, WAUGH, THOMPSON, BOSCOLA AND PUNT, MAY 26, 2004

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, JUNE 9, 2004

AN ACT

1 Amending Titles 12 (Commerce and Trade) and 64 (Public
2 Authorities and Quasi-Public Corporations) of the
3 Pennsylvania Consolidated Statutes, providing for water
4 supply and wastewater infrastructure capitalization; defining
5 "investor-owned water or wastewater enterprise"; and
6 providing for Water Supply and Wastewater Infrastructure
7 Program.

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

10 Section 1. Title 12 of the Pennsylvania Consolidated
11 Statutes is amended by adding a chapter to read:

CHAPTER 39

WATER SUPPLY AND WASTEWATER

INFRASTRUCTURE CAPITALIZATION

15 Sec.

16 3901. Scope of chapter.

17 3902. Definitions.

18 3903. Establishment.

19 3904. Award of grants.

1 3905. Award and administration of loans.

2 3906. Funds.

3 § 3901. Scope of chapter.

4 This chapter relates to the Water Supply and Wastewater  
5 Infrastructure Capitalization Program.

6 § 3902. Definitions.

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

10 "Applicant." A municipality, a municipal authority,  
11 industrial development corporation or an investor-owned water or  
12 wastewater enterprise that submits an application under 64  
13 Pa.C.S. § 1558 (relating to Water Supply and Wastewater  
14 Infrastructure Program).

15 "Authority." The Commonwealth Financing Authority  
16 established under 64 Pa.C.S. § 1511 (relating to authority).

17 "Cost of a project." Any of the following:

18 (1) Costs and expenses of acquisition of interests in  
19 land, infrastructure, buildings, structures, equipment,  
20 furnishings, fixtures and other tangible property which  
21 comprises the project.

22 (2) Costs and expenses of construction, reconstruction,  
23 erection, equipping, expansion, improvement, installation,  
24 rehabilitation, renovation or repair of infrastructure,  
25 buildings, structures, equipment and fixtures which comprise  
26 the project.

27 (3) Costs and expenses of demolishing, removing or  
28 relocating buildings or structures on lands acquired or to be  
29 acquired.

30 (4) Costs and expenses of preparing land for

1 development.

2 (5) Costs and expenses of engineering services,  
3 financial services, accounting services, legal services,  
4 plans, specifications, studies and surveys necessary or  
5 incidental to determining the feasibility or practicability  
6 of the project.

7 "Industrial development corporation." An entity certified as  
8 an industrial development agency by the Pennsylvania Industrial  
9 Development Authority Board under the act of May 17, 1956 (1955  
10 P.L.1609, No.537), known as the Pennsylvania Industrial  
11 Development Authority Act.

12 "Investor-owned water or wastewater enterprise." A nonpublic  
13 entity which supplies water or provides wastewater services to  
14 the public for a fee.

15 "Municipal authority." A public authority created under 53  
16 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the  
17 former act of May 2, 1945 (P.L.382, No.164), known as the  
18 Municipality Authorities Act of 1945, which supplies water or  
19 provides wastewater services to the public for a fee.

20 "Project." An activity approved for a grant or loan under 64  
21 Pa.C.S. § 1558 (relating to Water Supply and Wastewater  
22 Infrastructure Program).

23 § 3903. Establishment.

24 There is established within the department a program to be  
25 known as the Water Supply and Wastewater Infrastructure  
26 Capitalization Program. The program shall finance single-year or  
27 multiyear grants to municipalities and municipal authorities and  
28 loans to municipalities, municipal authorities, industrial  
29 development corporations and investor-owned water or wastewater  
30 enterprises ~~or~~ FOR projects which are approved by the

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1 Commonwealth Financing Authority and which, when completed,  
2 construct, expand or improve water and wastewater infrastructure  
3 which is related to economic development.

4 § 3904. Award of grants.

5 Upon being notified by the authority that a grant has been  
6 approved under 64 Pa.C.S. § 1558(c) (relating to Water Supply  
7 and Wastewater Infrastructure Program) for a municipality or  
8 municipal authority, the department shall, within 45 days of  
9 receiving notice, enter into a contract with the municipality or  
10 municipal authority. The contract shall be for the amount  
11 approved by the authority. Upon entering into a contract with  
12 the municipality or municipal authority, the department shall  
13 award the grant for the amount specified in the contract.

14 § 3905. Award and administration of loans.

15 (a) Award.--

16 (1) Upon being notified that a loan has been approved  
17 under 64 Pa.C.S. § 1558(c) (relating to Water Supply and  
18 Wastewater Infrastructure Program) for an applicant, the  
19 department shall, within 45 days of receiving notice, enter  
20 into a contract with the applicant. The contract shall be for  
21 the amount approved and shall specify the terms of the loan  
22 in accordance with all of the following:

23 (i) A loan shall be at an interest rate not to  
24 exceed 1%.

25 (ii) A loan shall be for a term not to exceed 20  
26 years.

27 (2) Upon entering into a contract with the applicant,  
28 the department shall award the loan for the amount specified  
29 in the contract.

30 (b) Administration.--Loans made under this section shall be

1 administered by the department. Loan payments received by the  
2 department for a loan awarded under this section shall be  
3 deposited in the General Fund.

4 § 3906. Funds.

5 Proceeds of the borrowing authorized by the electors pursuant  
6 to the act of February 12, 2004 (P.L.72, No.10), known as the  
7 Water and Wastewater Treatment Project Bond Act, shall be used  
8 by the department in funding grants and loans awarded under this  
9 chapter.

10 Section 2. Section 1504 of Title 64, added April 1, 2004  
11 (P.L.163, No.22), is amended by adding a definition to read:

12 § 1504. Definitions.

13 The following words and phrases when used in this chapter  
14 shall have the meaning given to them in this section unless the  
15 context clearly indicates otherwise:

16 \* \* \*

17 "Investor-owned water or wastewater enterprise." A nonpublic  
18 entity which supplies water or provides wastewater services to  
19 the public for a fee.

20 \* \* \*

21 Section 3. Title 64 is amended by adding a section to read:

22 § 1558. Water Supply and Wastewater Infrastructure Program.

23 (a) Establishment.--There is established a program to be  
24 known as the Water Supply and Wastewater Infrastructure Program.  
25 The program shall provide financial assistance in the form of  
26 single-year or multiyear grants to municipalities and municipal  
27 authorities and in the form of loans to municipalities,  
28 municipal authorities, industrial development corporations and  
29 investor-owned water or wastewater enterprises for projects  
30 which, when completed, construct, expand or improve water and

1 wastewater infrastructure which is related to economic  
2 development.

3 (b) Application.--A municipality, a municipal authority, an  
4 industrial development corporation or an investor-owned water or  
5 wastewater enterprise may submit an application to the authority  
6 requesting financial assistance for a project. The application  
7 must be on the form required by the board and must include or  
8 demonstrate all of the following:

9 (1) The name and address of the applicant.

10 (2) A statement of the type and amount of financial  
11 assistance sought. If the applicant is requesting financial  
12 assistance in the form of a grant, the request may not exceed  
13 75% of the cost of the project.

14 (3) A statement of the project, including a detailed  
15 statement of the cost of the project.

16 (4) A financial commitment from a responsible source for  
17 any cost of the project in excess of the amount requested. If  
18 the applicant is requesting financial assistance in the form  
19 of a grant from the department, the financial commitment may  
20 not be in the form of a grant from a Commonwealth agency.

21 (5) A firm commitment from the project user to use the  
22 project upon completion.

23 (6) Proof that the applicant has secured planning and  
24 permit approvals for the project from the Department of  
25 Environmental Protection.

26 (7) Any other information required by the board.

27 (c) Review and approval of grant applications.--

28 (1) If an applicant is requesting financial assistance  
29 in the form of a grant, the authority, in conjunction with  
30 the Department of Environmental Protection, shall review the

1 application to determine all of the following:

2 (i) That the applicant is not an investor-owned  
3 water or wastewater enterprise.

4 (ii) If the project is related to economic  
5 development.

6 (iii) If there is a financial commitment for at  
7 least 25% of the project.

8 (iv) If the source of the financial commitment is  
9 from a responsible source.

10 (v) If the municipality or municipal authority is  
11 firmly committed to using the project upon completion.

12 (vi) If the municipality or municipal authority has  
13 secured planning and permit approvals for the project  
14 from the Department of Environmental Protection.

15 (vii) That the municipality or municipal authority  
16 did not receive a grant or loan under section 1551  
17 (relating to Business in Our Sites Program) for the  
18 project.

19 (viii) If the municipality or municipal authority  
20 complied with all other criteria established by the  
21 board.

22 (2) Upon being satisfied that all program requirements  
23 have been met, the authority may approve the application in  
24 accordance with all of the following:

25 (i) The grant may not exceed \$5,000,000 per project.

26 (ii) Grants under this program shall not exceed  
27 \$10,000,000 in the aggregate per municipality or  
28 municipal authority.

29 (iii) The aggregate amount of grants awarded under  
30 this subsection shall not exceed \$125,000,000.

1           (3) If the authority approves the application, the  
2 authority shall notify the department of the amount approved.

3 (d) Review and approval of loan applications.--

4           (1) If an applicant is requesting financial assistance  
5 in the form of a loan, the department, in conjunction with  
6 the Department of Environmental Protection, shall review the  
7 application to determine all of the following:

8                   (i) If the project is related to economic  
9 development.

10                   (ii) If a financial commitment exists for any cost  
11 of the project in excess of the amount requested.

12                   (iii) If the source of the financial commitment is  
13 from a responsible source.

14                   (iv) If the project user is firmly committed to  
15 using the project upon completion.

16                   (v) If the applicant has secured planning and permit  
17 approvals for the project from the Department of  
18 Environmental Protection.

19                   (vi) That the applicant did not receive a grant or  
20 loan under section 1551 for the project.

21                   (vii) If the applicant complied with all other  
22 criteria established by the board.

23           (2) Upon being satisfied that all program requirements  
24 have been met, the board may approve the application in  
25 accordance with all of the following:

26                   (i) The loan may not exceed \$5,000,000 per project.

27                   (ii) Loans under this program shall not exceed  
28 \$10,000,000 in the aggregate per applicant.

29           (3) If the authority approves the application, the  
30 authority shall notify the department of the amount approved.



1 Section 4. This act shall take effect immediately.