
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, PUNT AND ROBBINS, MAY 26, 2004

AS AMENDED ON THIRD CONSIDERATION, JUNE 16, 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:

12 CHAPTER 39

13 WATER SUPPLY AND WASTEWATER

14 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 for projects which are approved by the Commonwealth

1 Financing Authority and which, when completed, construct, expand
2 or improve water and wastewater infrastructure which is related
3 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(d) (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 (4) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO ←
4 PROHIBIT THE AWARDING OF GRANTS TO MUNICIPALITIES IN WHICH
5 THE WATER SUPPLY OR WASTEWATER SERVICES ARE PROVIDED IN WHOLE
6 OR IN PART BY AN INVESTOR-OWNED WATER OR WASTEWATER
7 ENTERPRISE.

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

9 (1) If an applicant is requesting financial assistance
10 in the form of a loan, the authority, in conjunction with the
11 Department of Environmental Protection, shall review the
12 application to determine all of the following:

13 (i) If the project is related to economic
14 development.

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

17 (iii) If the source of the financial commitment is
18 from a responsible source.

19 (iv) If the project user is firmly committed to
20 using the project upon completion.

21 (v) If the applicant has secured planning and permit
22 approvals for the project from the Department of
23 Environmental Protection.

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

26 (vii) If the applicant complied with all other
27 criteria established by the board.

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

1 (i) The loan may not exceed \$5,000,000 per project.
2 (ii) Loans under this program shall not exceed
3 \$10,000,000 in the aggregate per applicant.
4 (3) If the authority approves the application, the
5 authority shall notify the department of the amount approved.
6 Section 4. This act shall take effect immediately.