
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 RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 29, 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;
5 AUTHORIZING DEBT; defining "investor-owned water or
6 wastewater enterprise"; and providing for Water Supply and
7 Wastewater Infrastructure 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.

- 1 3904. Award of grants.
- 2 3905. Award and administration of loans.
- 3 3906. Funds.
- 4 3907. COMMONWEALTH INDEBTEDNESS.

←

5 § 3901. Scope of chapter.

6 This chapter relates to the Water Supply and Wastewater
7 Infrastructure Capitalization Program.

8 § 3902. Definitions.

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

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

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

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

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

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

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

1 acquired.

2 (4) Costs and expenses of preparing land for
3 development.

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

9 "FUND." THE WATER SUPPLY AND WASTEWATER TREATMENT FUND ←
10 ESTABLISHED IN SECTION 3906(B) (RELATING TO FUNDS).

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

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

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

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

27 "SINKING FUND." THE WATER SUPPLY AND WASTEWATER TREATMENT ←
28 SINKING FUND ESTABLISHED IN SECTION 3906(B) (RELATING TO FUNDS).
29 § 3903. Establishment.

30 There is established within the department a program to be

1 known as the Water Supply and Wastewater Infrastructure
2 Capitalization Program. The program shall finance single-year or
3 multiyear grants to municipalities and municipal authorities and
4 loans to municipalities, municipal authorities, industrial
5 development corporations and investor-owned water or wastewater
6 enterprises for projects which are approved by the ~~Commonwealth~~ <—
7 ~~Financing Authority~~ AUTHORITY and which, when completed, <—
8 construct, expand or improve water and wastewater infrastructure
9 ~~which is related to economic development.~~ <—

10 § 3904. Award of grants.

11 Upon being notified by the authority that a grant has been
12 approved under 64 Pa.C.S. § 1558(c) (relating to Water Supply
13 and Wastewater Infrastructure Program) for ~~a municipality or~~ <—
14 ~~municipal authority~~ AN APPLICANT, the department shall, within <—
15 45 days of receiving notice, enter into a contract with the
16 ~~municipality or municipal authority~~ APPLICANT. The contract <—
17 shall be for the amount approved by the authority. Upon entering
18 into a contract with the ~~municipality or municipal authority~~ <—
19 APPLICANT, the department shall award the grant for the amount <—
20 specified in the contract.

21 § 3905. Award and administration of loans.

22 (a) Award.--

23 (1) Upon being notified that a loan has been approved
24 under 64 Pa.C.S. § 1558(d) (relating to Water Supply and
25 Wastewater Infrastructure Program) for an applicant, the
26 department shall, within 45 days of receiving notice, enter
27 into a contract with the applicant. The contract shall be for
28 the amount approved and shall specify the terms of the loan
29 in accordance with all of the following:

30 (i) A loan shall be at an interest rate not to

1 exceed 1%.

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

4 (2) Upon entering into a contract with the applicant,
5 the department shall award the loan for the amount specified
6 in the contract.

7 (b) Administration.--Loans made under this section shall be
8 administered by the department. Loan payments received by the
9 department for a loan awarded under this section shall be
10 deposited in the General Fund.

11 § 3906. Funds.

12 (A) PROCEEDS.--Proceeds of the borrowing authorized by the <—
13 electors pursuant to the act of February 12, 2004 (P.L.72,
14 No.10), known as the Water and Wastewater Treatment Project Bond
15 Act, shall be used by the department in funding grants and loans
16 awarded under this chapter.

17 (B) FUND.-- <—

18 (1) THE WATER SUPPLY AND WASTEWATER TREATMENT FUND IS
19 ESTABLISHED AS A RESTRICTED FUND IN THE STATE TREASURY.

20 (2) THE FUND SHALL BE USED TO CARRY OUT THE PURPOSES OF
21 THIS CHAPTER.

22 (C) SINKING FUND.--THE WATER SUPPLY AND WASTEWATER TREATMENT
23 SINKING FUND IS ESTABLISHED TO ~~RETIRE DEBT~~ MAKE PRINCIPAL AND <—
24 INTEREST PAYMENTS UNDER SECTION 3907(D) (RELATING TO
25 COMMONWEALTH INDEBTEDNESS).

26 § 3907. COMMONWEALTH INDEBTEDNESS.

27 (A) BORROWING AUTHORIZED.--

28 (1) PURSUANT TO ~~THE REFERENDUM UNDER~~ SECTION 7(A)(3) OF <—
29 ARTICLE VIII OF THE CONSTITUTION OF PENNSYLVANIA AND THE
30 APPROVAL BY THE ELECTORATE ON APRIL 27, 2004, OF THE

1 REFERENDUM AUTHORIZED BY THE ACT OF FEBRUARY 12, 2004
2 (P.L.72, NO.10), KNOWN AS THE WATER AND WASTEWATER TREATMENT
3 PROJECT BOND ACT, ~~AND UNDER SECTION 7(A)(3) OF ARTICLE VIII~~ <—
4 ~~OF THE CONSTITUTION OF PENNSYLVANIA,~~ THE ISSUING OFFICIALS
5 ARE AUTHORIZED AND DIRECTED TO BORROW ~~OVER A THREE YEAR~~ <—
6 ~~PERIOD,~~ ON THE CREDIT OF THE COMMONWEALTH, MONEY NOT
7 EXCEEDING IN THE AGGREGATE THE SUM OF \$250,000,000, NOT
8 INCLUDING MONEY BORROWED TO REFUND OUTSTANDING BONDS, NOTES
9 OR REPLACEMENT NOTES, AS MAY BE FOUND NECESSARY TO CARRY OUT
10 THE PURPOSES OF THIS CHAPTER.

11 (2) AS EVIDENCE OF THE INDEBTEDNESS AUTHORIZED IN THIS
12 CHAPTER, GENERAL OBLIGATION BONDS OF THE COMMONWEALTH SHALL
13 BE ISSUED TO PROVIDE MONEY NECESSARY TO CARRY OUT THE
14 PURPOSES OF THIS CHAPTER. THE ISSUING OFFICIALS SHALL DIRECT
15 THE FOLLOWING:

16 (I) TOTAL PRINCIPAL AMOUNT. <—

17 (II) FORM.

18 (III) DENOMINATION.

19 (IV) TERMS AND CONDITIONS OF:

20 (A) ISSUE;

21 (B) REDEMPTION AND MATURITY;

22 (C) RATE OF INTEREST; AND

23 (D) TIME OF PAYMENT OF INTEREST, EXCEPT THAT THE
24 LATEST STATED MATURITY DATE SHALL NOT EXCEED 20 YEARS
25 FROM THE DATE OF THE FIRST OBLIGATION ISSUED TO
26 EVIDENCE THE DEBT.

27 (3) ALL BONDS AND NOTES ISSUED UNDER THE AUTHORITY OF
28 THIS CHAPTER SHALL BEAR FACSIMILE SIGNATURES OF THE ISSUING
29 OFFICIALS AND A FACSIMILE OF THE GREAT SEAL OF THE
30 COMMONWEALTH AND SHALL BE COUNTERSIGNED BY AN AUTHORIZED

1 OFFICER OF AN AUTHORIZED LOAN AND TRANSFER AGENT OF THE
2 COMMONWEALTH.

3 (4) ALL BONDS AND NOTES ISSUED IN ACCORDANCE WITH THIS
4 CHAPTER SHALL BE DIRECT OBLIGATIONS OF THE COMMONWEALTH. THE
5 FULL FAITH AND CREDIT OF THE COMMONWEALTH ARE PLEDGED FOR THE
6 PAYMENT OF THE INTEREST ON THE BONDS AND NOTES, AS IT BECOMES
7 DUE, AND THE PAYMENT OF THE PRINCIPAL AT MATURITY. THE
8 PRINCIPAL OF AND INTEREST ON THE BONDS AND NOTES SHALL BE
9 PAYABLE IN LAWFUL MONEY OF THE UNITED STATES.

10 (5) ALL BONDS AND NOTES ISSUED UNDER THIS CHAPTER SHALL
11 BE:

12 (I) EXEMPT FROM TAXATION FOR STATE AND LOCAL
13 PURPOSES; AND

14 (II) ELIGIBLE FOR TAX-EXEMPT BOND FUNDING UNDER
15 EXISTING FEDERAL LAW.

16 (6) THE BONDS MAY BE ISSUED AS COUPON BONDS OR
17 REGISTERED AS TO BOTH PRINCIPAL AND INTEREST AS THE ISSUING
18 OFFICIALS DETERMINE. IF INTEREST COUPONS ARE ATTACHED, THEY
19 SHALL CONTAIN THE FACSIMILE SIGNATURE OF THE STATE TREASURER.

20 (7) THE ISSUING OFFICIALS SHALL PROVIDE FOR THE
21 AMORTIZATION OF THE BONDS IN SUBSTANTIAL AND REGULAR AMOUNTS
22 OVER THE TERM OF THE DEBT SO THAT THE BONDS OF EACH ISSUE
23 SHALL MATURE WITHIN A PERIOD NOT TO EXCEED THE APPROPRIATE
24 AMORTIZATION PERIOD AS SPECIFIED BY THE ISSUING OFFICIALS,
25 BUT IN NO CASE IN EXCESS OF 20 YEARS. THE FIRST RETIREMENT OF
26 PRINCIPAL SHALL BE STATED TO MATURE PRIOR TO THE EXPIRATION
27 OF A PERIOD OF TIME EQUAL TO ONE-TENTH OF THE TIME FROM THE
28 DATE OF THE FIRST OBLIGATION ISSUED TO EVIDENCE THE DEBT TO
29 THE DATE OF THE EXPIRATION OF THE TERM OF THE DEBT.

30 RETIREMENTS OF PRINCIPAL SHALL BE REGULAR AND SUBSTANTIAL IF

1 MADE IN ANNUAL OR SEMIANNUAL AMOUNTS, WHETHER BY STATED
2 SERIAL MATURITIES OR BY MANDATORY SINKING FUND RETIREMENTS.

3 (8) THE ISSUING OFFICIALS ARE AUTHORIZED TO PROVIDE BY
4 RESOLUTION FOR THE ISSUANCE OF REFUNDING BONDS FOR THE
5 PURPOSE OF REFUNDING DEBT ISSUED UNDER THIS CHAPTER AND THEN
6 OUTSTANDING, EITHER BY VOLUNTARY EXCHANGE WITH THE HOLDERS OF
7 THE OUTSTANDING DEBT OR BY PROVIDING FUNDS TO REDEEM AND
8 RETIRE THE OUTSTANDING DEBT WITH ACCRUED INTEREST, ANY
9 PREMIUM PAYABLE ~~ON THEM~~ AND THE COSTS OF ISSUANCE AND ←
10 RETIREMENT OF THE DEBT, AT MATURITY OR AT ANY CALL DATE. THE
11 ISSUANCE OF THE REFUNDING BONDS, THE MATURITIES AND OTHER
12 DETAILS OF THE REFUNDING BONDS, THE RIGHTS OF THE HOLDERS OF
13 THE REFUNDING BONDS AND THE DUTIES OF THE ISSUING OFFICIALS
14 IN RESPECT TO THE REFUNDING BONDS SHALL BE GOVERNED BY THE
15 APPLICABLE PROVISIONS OF THIS CHAPTER. REFUNDING BONDS, WHICH
16 ARE NOT SUBJECT TO THE AGGREGATE LIMITATION OF \$250,000,000
17 OF DEBT TO BE ISSUED PURSUANT TO THIS CHAPTER, MAY BE ISSUED
18 BY THE ISSUING OFFICIALS TO REFUND DEBT ORIGINALLY ISSUED OR
19 TO REFUND BONDS PREVIOUSLY ISSUED FOR REFUNDING PURPOSES.

20 (9) IF AN ACTION IS TO BE TAKEN OR A DECISION IS TO BE
21 MADE BY THE ISSUING OFFICIALS AND THE THREE OFFICERS ARE NOT
22 ABLE UNANIMOUSLY TO AGREE, THE ACTION OR DECISION OF THE
23 GOVERNOR AND EITHER THE AUDITOR GENERAL OR THE STATE
24 TREASURER SHALL BE BINDING AND FINAL.

25 (B) SALE OF BONDS.--

26 (1) IF BONDS ARE ISSUED, THE FOLLOWING APPLY:

27 (I) BONDS SHALL BE OFFERED FOR SALE AT NOT LESS THAN
28 98% OF THE PRINCIPAL AMOUNT AND ACCRUED INTEREST.

29 (II) BONDS SHALL BE SOLD BY THE ISSUING OFFICIALS TO
30 THE HIGHEST AND BEST BIDDER AFTER PUBLIC ADVERTISEMENT ON

1 THE TERMS AND CONDITIONS AND UPON OPEN COMPETITIVE
2 BIDDING AS THE ISSUING OFFICIALS DIRECT. THE MANNER AND
3 CHARACTER OF THE ADVERTISEMENT AND THE TIME OF
4 ADVERTISING SHALL BE PRESCRIBED BY THE ISSUING OFFICIALS.

5 (III) NO COMMISSION SHALL BE ALLOWED OR PAID FOR THE
6 SALE OF ANY BONDS ISSUED UNDER THE AUTHORITY OF THIS
7 CHAPTER.

8 (2) ANY PORTION OF ANY BOND ISSUE OFFERED AND NOT SOLD
9 OR SUBSCRIBED FOR AT PUBLIC SALE MAY BE DISPOSED OF BY
10 PRIVATE SALE BY THE ISSUING OFFICIALS IN A MANNER AND AT A
11 PRICE, NOT LESS THAN 98% OF THE PRINCIPAL AMOUNT AND ACCRUED
12 INTEREST, AS THE GOVERNOR DIRECTS. NO COMMISSION SHALL BE
13 ALLOWED OR PAID FOR THE SALE OF ANY BONDS ISSUED UNDER THE
14 AUTHORITY OF THIS CHAPTER.

15 (3) THE BONDS OF EACH ISSUE SHALL CONSTITUTE A SEPARATE
16 SERIES TO BE DESIGNATED BY THE ISSUING OFFICIALS OR MAY BE
17 COMBINED FOR SALE AS ONE SERIES WITH OTHER GENERAL OBLIGATION
18 BONDS OF THE COMMONWEALTH.

19 (4) UNTIL PERMANENT BONDS CAN BE PREPARED, THE ISSUING
20 OFFICIALS MAY ISSUE, IN LIEU OF PERMANENT BONDS, TEMPORARY
21 BONDS IN A FORM AND WITH PRIVILEGES AS TO REGISTRATION AND
22 EXCHANGE FOR PERMANENT BONDS AS DETERMINED BY THE ISSUING
23 OFFICIALS.

24 (5) THE PROCEEDS REALIZED FROM THE SALE OF BONDS AND
25 NOTES, EXCEPT REFUNDING BONDS AND REPLACEMENT NOTES, UNDER
26 THIS CHAPTER SHALL BE PAID INTO THE FUND AND ARE SPECIFICALLY
27 DEDICATED TO THE PURPOSES OF THIS CHAPTER. THE PROCEEDS SHALL
28 BE PAID BY THE STATE TREASURER PERIODICALLY TO THE DEPARTMENT
29 AT TIMES AND IN AMOUNTS AS NECESSARY TO SATISFY THE FUNDING
30 NEEDS OF THE DEPARTMENT UNDER THIS CHAPTER. THE PROCEEDS OF

1 THE SALE OF REFUNDING BONDS AND REPLACEMENT NOTES SHALL BE
2 PAID TO THE STATE TREASURER AND APPLIED TO THE PAYMENT OF
3 PRINCIPAL, ANY ACCRUED INTEREST AND PREMIUM, AND COST OF
4 REDEMPTION, OF THE BONDS AND NOTES FOR WHICH THE OBLIGATIONS
5 HAVE BEEN ISSUED.

6 (6) PENDING THEIR APPLICATION FOR THE PURPOSES
7 AUTHORIZED, MONEY HELD OR DEPOSITED BY THE STATE TREASURER
8 MAY BE INVESTED OR REINVESTED AS ARE OTHER FUNDS IN THE
9 CUSTODY OF THE STATE TREASURER IN THE MANNER PROVIDED BY LAW.
10 ALL EARNINGS RECEIVED FROM THE INVESTMENT OR DEPOSIT OF THE
11 FUNDS SHALL BE PAID INTO THE STATE TREASURY TO THE CREDIT OF
12 THE FUND.

13 (7) THE AUDITOR GENERAL SHALL PREPARE THE NECESSARY
14 REGISTRY BOOK TO BE KEPT IN THE OFFICE OF THE AUTHORIZED LOAN
15 AND TRANSFER AGENT OF THE COMMONWEALTH FOR THE REGISTRATION
16 OF BONDS, AT THE REQUEST OF OWNERS OF THE BONDS, ACCORDING TO
17 THE TERMS AND CONDITIONS OF ISSUE DIRECTED BY THE ISSUING
18 OFFICIALS.

19 (8) THERE IS HEREBY APPROPRIATED TO THE STATE TREASURER
20 FROM THE FUND AS MUCH MONEY AS MAY BE NECESSARY FOR ALL COSTS
21 AND EXPENSES IN CONNECTION WITH THE ISSUE OF AND SALE AND
22 REGISTRATION OF THE BONDS AND NOTES IN CONNECTION WITH THIS
23 CHAPTER AND THE PAYMENT OF INTEREST ARBITRAGE REBATES. OR ←
24 ~~PROCEEDS OF THE BONDS AND NOTES.~~

25 (C) TEMPORARY FINANCING AUTHORIZATION.--

26 (1) PENDING THE ISSUANCE OF BONDS OF THE COMMONWEALTH AS
27 AUTHORIZED, THE ISSUING OFFICIALS ARE AUTHORIZED, IN
28 ACCORDANCE WITH THIS CHAPTER AND ON THE CREDIT OF THE
29 COMMONWEALTH, TO MAKE TEMPORARY BORROWINGS NOT TO EXCEED ONE
30 YEAR IN ANTICIPATION OF THE ISSUE OF BONDS IN ORDER TO

1 PROVIDE FUNDS IN AMOUNTS AS DEEMED ADVISABLE PRIOR TO THE
2 ISSUE OF BONDS. IN ORDER TO PROVIDE FOR AND IN CONNECTION
3 WITH ANY TEMPORARY BORROWING, THE ISSUING OFFICIALS ARE
4 AUTHORIZED IN THE NAME AND ON BEHALF OF THE COMMONWEALTH TO
5 ENTER INTO PURCHASE, LOAN OR CREDIT AGREEMENT OR OTHER
6 AGREEMENT WITH ANY BANK OR TRUST COMPANY, OTHER LENDING
7 INSTITUTION, INVESTMENT BANKING FIRM OR PERSON IN THE UNITED
8 STATES HAVING POWER TO ENTER INTO THE AGREEMENT. THE
9 AGREEMENT MAY CONTAIN PROVISIONS NOT INCONSISTENT WITH THIS
10 CHAPTER AS AUTHORIZED BY THE ISSUING OFFICIALS.

11 (2) TEMPORARY BORROWINGS MADE UNDER THIS SUBSECTION
12 SHALL BE EVIDENCED BY NOTES OF THE COMMONWEALTH. THE ISSUING
13 OFFICIALS SHALL AUTHORIZE AND DIRECT, IN ACCORDANCE WITH THIS
14 CHAPTER, ALL OF THE FOLLOWING:

15 (I) AMOUNT, NOT EXCEEDING IN THE AGGREGATE THE
16 APPLICABLE STATUTORY ~~AND CONSTITUTIONAL~~ DEBT LIMITATION. <—

17 (II) FORM.

18 (III) DENOMINATION.

19 (IV) TERMS AND CONDITIONS OF:

20 (A) SALE AND ISSUE;

21 (B) PREPAYMENT OR REDEMPTION AND MATURITY;

22 (C) RATE OF INTEREST; AND

23 (D) TIME OF PAYMENT OF INTEREST.

24 (3) AUTHORIZATION AND DIRECTION UNDER PARAGRAPH (2) MAY
25 PROVIDE FOR THE SUBSEQUENT ISSUANCE OF REPLACEMENT NOTES TO
26 REFUND OUTSTANDING NOTES OR REPLACEMENT NOTES. REPLACEMENT
27 NOTES SHALL EVIDENCE BORROWING AND MAY SPECIFY OTHER TERMS
28 AND CONDITIONS WITH RESPECT TO THE NOTES AND REPLACEMENT
29 NOTES AUTHORIZED FOR ISSUANCE AS THE ISSUING OFFICIALS
30 DETERMINE AND DIRECT.

1 (4) IF THE AUTHORIZATION AND DIRECTION OF THE ISSUING
2 OFFICIALS PROVIDE FOR THE ISSUANCE OF REPLACEMENT NOTES, THE
3 ISSUING OFFICIALS ARE AUTHORIZED IN THE NAME AND ON BEHALF OF
4 THE COMMONWEALTH TO ISSUE, ENTER INTO OR AUTHORIZE AND DIRECT
5 THE STATE TREASURER TO ENTER INTO AN AGREEMENT WITH ANY BANK,
6 TRUST COMPANY, INVESTMENT BANKING FIRM OR OTHER INSTITUTION
7 OR PERSON IN THE UNITED STATES HAVING THE POWER TO ENTER INTO
8 THE AGREEMENT:

9 (I) TO PURCHASE OR UNDERWRITE AN ISSUE OR SERIES OF
10 ISSUES OF NOTES.

11 (II) TO CREDIT; TO ENTER INTO ANY PURCHASE, LOAN OR
12 CREDIT AGREEMENT; TO DRAW MONEY PURSUANT TO THE AGREEMENT
13 ON THE TERMS AND CONDITIONS SET FORTH IN THE AGREEMENT;
14 AND TO ISSUE NOTES AS EVIDENCE OF BORROWINGS MADE UNDER
15 THE AGREEMENT.

16 (III) TO APPOINT AN ISSUING AND PAYING AGENT WITH
17 RESPECT TO NOTES.

18 (IV) TO DO ALL ACTS NECESSARY OR APPROPRIATE TO
19 PROVIDE FOR THE PAYMENT, WHEN DUE, OF THE INTEREST ON AND
20 THE PRINCIPAL OF THE NOTES.

21 (5) AN AGREEMENT UNDER PARAGRAPH (4) MAY PROVIDE FOR THE
22 COMPENSATION OF PURCHASERS OR UNDERWRITERS OF NOTES OR
23 REPLACEMENT NOTES BY DISCOUNTING THE PURCHASE PRICE OF THE
24 NOTES OR BY PAYMENT OF A FIXED FEE OR COMMISSION AT THE TIME
25 OF THEIR ISSUANCE. ALL OTHER COSTS AND EXPENSES, INCLUDING
26 FEES FOR AGREEMENTS RELATED TO THE NOTES, ISSUING AND PAYING
27 AGENT COSTS AND COSTS AND EXPENSES OF ISSUANCE, MAY BE PAID
28 FROM THE PROCEEDS OF THE NOTES.

29 (6) IF THE AUTHORIZATION AND DIRECTION OF THE ISSUING
30 OFFICIALS PROVIDE FOR THE ISSUANCE OF REPLACEMENT NOTES, THE

1 STATE TREASURER, AT OR PRIOR TO THE TIME OF DELIVERY OF THESE
2 NOTES OR REPLACEMENT NOTES, SHALL, SUBJECT TO THE
3 AUTHORIZATION AND DIRECTION OF THE ISSUING OFFICIALS, DO ALL
4 OF THE FOLLOWING:

5 (I) DETERMINE THE:

6 (A) PRINCIPAL AMOUNTS;

7 (B) DATES OF ISSUE;

8 (C) INTEREST RATE OR PROCEDURE FOR ESTABLISHING
9 INTEREST RATES;

10 (D) RATES OF DISCOUNT;

11 (E) DENOMINATION; AND

12 (F) OTHER TERMS AND CONDITIONS RELATING TO
13 ISSUANCE.

14 (II) PERFORM ALL ACTS AND THINGS NECESSARY TO PAY OR
15 CAUSE TO BE PAID, WHEN DUE, ALL PRINCIPAL OF AND INTEREST
16 ON THE NOTES BEING REFUNDED BY REPLACEMENT NOTES AND TO
17 ASSURE THAT THE PAYMENT MAY DRAW UPON ANY MONEY AVAILABLE
18 FOR THAT PURPOSE PURSUANT TO A PURCHASE, LOAN OR CREDIT
19 AGREEMENT ESTABLISHED WITH RESPECT TO THE NOTES.

20 (7) OUTSTANDING NOTES EVIDENCING THE BORROWINGS MAY BE
21 FUNDED AND RETIRED BY THE ISSUANCE AND SALE OF THE BONDS OF
22 THE COMMONWEALTH AS AUTHORIZED IN THIS PARAGRAPH. THE
23 REFUNDING BONDS SHALL BE ISSUED AND SOLD NOT LATER THAN A
24 DATE ONE YEAR AFTER THE DATE OF ISSUANCE OF THE FIRST NOTES
25 EVIDENCING THE BORROWING TO THE EXTENT THAT PAYMENT OF THE
26 NOTES HAS NOT OTHERWISE BEEN MADE OR PROVIDED FOR BY SOURCES
27 OTHER THAN PROCEEDS OF REPLACEMENT NOTES.

28 (8) THE PROCEEDS OF ALL TEMPORARY BORROWING SHALL BE
29 PAID TO THE STATE TREASURER TO BE HELD AND DISPOSED OF IN
30 ACCORDANCE WITH THIS CHAPTER.

1 (D) DEBT RETIREMENT.--

2 (1) ALL BONDS ISSUED UNDER THE AUTHORITY OF THIS CHAPTER
3 SHALL BE REDEEMED AT MATURITY, TOGETHER WITH ALL INTEREST
4 DUE. PRINCIPAL AND INTEREST PAYMENTS SHALL BE PAID FROM THE
5 SINKING FUND. FOR THE SPECIFIC PURPOSE OF REDEEMING THE BONDS
6 AT MATURITY AND PAYING ALL INTEREST ON THE BONDS IN
7 ACCORDANCE WITH THE INFORMATION RECEIVED FROM THE GOVERNOR,
8 THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY ~~TO THE SINKING~~ ←
9 ~~FUND~~ FOR THE PAYMENT OF INTEREST ON THE BONDS AND NOTES AND
10 THE PRINCIPAL OF THE BONDS AND NOTES AT MATURITY. ALL MONEY
11 PAID INTO THE SINKING FUND AND ALL OF THE MONEY NOT NECESSARY
12 TO PAY ACCRUING INTEREST SHALL BE INVESTED BY THE STATE
13 TREASURER IN SECURITIES AS ARE PROVIDED BY LAW FOR THE
14 INVESTMENT OF THE SINKING FUNDS OF THE COMMONWEALTH.

15 (2) THE STATE TREASURER SHALL DETERMINE AND REPORT TO
16 THE SECRETARY OF THE BUDGET BY NOVEMBER 1 OF EACH YEAR THE
17 AMOUNT OF MONEY NECESSARY FOR THE PAYMENT OF ANY INTEREST ON
18 OUTSTANDING OBLIGATIONS AND THE PRINCIPAL OF THE OBLIGATIONS
19 FOR THE FOLLOWING FISCAL YEAR AND THE TIMES AND AMOUNTS OF
20 THE PAYMENTS. THE GOVERNOR SHALL INCLUDE IN EVERY BUDGET
21 SUBMITTED TO THE GENERAL ASSEMBLY FULL INFORMATION RELATING
22 TO THE ISSUANCE OF BONDS AND NOTES UNDER THIS CHAPTER AND THE
23 STATUS OF THE FUND AND THE SINKING FUND FOR THE PAYMENT OF
24 INTEREST ON THE BONDS AND NOTES AND THE PRINCIPAL OF THE
25 BONDS AND NOTES AT MATURITY.

26 (3) THE GENERAL ASSEMBLY SHALL APPROPRIATE FOR DEPOSIT
27 INTO THE SINKING FUND AN AMOUNT EQUAL TO THE SUM NECESSARY TO
28 MEET REPAYMENT OBLIGATIONS FOR PRINCIPAL AND INTEREST.

29 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM "ISSUING
30 OFFICIALS" MEANS THE GOVERNOR, THE AUDITOR GENERAL AND THE STATE

1 TREASURER.

2 Section 2. Section 1504 of Title 64, ~~added April 1, 2004~~ <—
3 ~~(P.L.163, No.22)~~, is amended by adding a definition to read:
4 § 1504. Definitions.

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

8 * * *

9 "Investor-owned water or wastewater enterprise." A nonpublic
10 entity which supplies water or provides wastewater services to
11 the public for a fee.

12 * * *

13 SECTION 3. SECTION 1543(C) OF TITLE 64, ADDED APRIL 1, 2004 <—
14 (P.L.163, NO.22), IS AMENDED TO READ:

15 § 1543. INDEBTEDNESS.

16 * * *

17 (C) FISCAL YEAR LIMITATIONS.--

18 (1) EXCEPT AS PROVIDED IN SUBSECTION (D) AND PARAGRAPHS
19 (2), (3) AND (4), THE AGGREGATE AMOUNT OF INDEBTEDNESS
20 INCURRED BY THE AUTHORITY, INCLUDING THROUGH THE ISSUANCE OF
21 BONDS, MAY NOT EXCEED \$250,000,000 REDUCED BY THE AGGREGATE
22 AMOUNT OF COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF
23 THE ACT OF FEBRUARY 12, 2004 (P.L.72, NO.10), KNOWN AS THE
24 WATER AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 12
25 PA.C.S. CH. 39 (RELATING TO WATER SUPPLY AND WASTEWATER
26 INFRASTRUCTURE CAPITALIZATION).

27 (2) EXCEPT AS PROVIDED IN SUBSECTION (D) AND PARAGRAPHS
28 (3) AND (4) AND UPON ADOPTION OF A RESOLUTION UNDER
29 SUBSECTION (F)(1), THE AGGREGATE AMOUNT OF INDEBTEDNESS
30 INCURRED BY THE AUTHORITY, INCLUDING THROUGH THE ISSUANCE OF

1 BONDS, MAY NOT EXCEED \$500,000,000 REDUCED BY THE AGGREGATE
2 AMOUNT OF COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF
3 THE WATER AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 12
4 PA.C.S. CH. 39.

5 (3) EXCEPT AS PROVIDED IN SUBSECTION (D) AND PARAGRAPH
6 (4) AND UPON ADOPTION OF A RESOLUTION UNDER SUBSECTION
7 (F)(2), THE AGGREGATE AMOUNT OF INDEBTEDNESS INCURRED BY THE
8 AUTHORITY, INCLUDING THROUGH THE ISSUANCE OF BONDS, MAY NOT
9 EXCEED \$750,000,000 REDUCED BY THE AGGREGATE AMOUNT OF
10 COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF THE WATER
11 AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 12 PA.C.S.
12 CH. 39.

13 (4) EXCEPT AS PROVIDED IN SUBSECTION (D) AND UPON
14 ADOPTION OF A RESOLUTION UNDER SUBSECTION (F)(3), THE
15 AGGREGATE AMOUNT OF INDEBTEDNESS INCURRED BY THE AUTHORITY,
16 INCLUDING THROUGH THE ISSUANCE OF BONDS, MAY NOT EXCEED
17 \$1,000,000,000 REDUCED BY THE AGGREGATE AMOUNT OF
18 COMMONWEALTH INDEBTEDNESS INCURRED [AS A RESULT OF THE WATER
19 AND WASTEWATER TREATMENT PROJECT BOND ACT] UNDER 12 PA.C.S.
20 CH. 39.

21 * * *

22 Section 3 4. Title 64 is amended by adding a section to ←
23 read:

24 § 1558. Water Supply and Wastewater Infrastructure Program.

25 (a) Establishment.--There is established a program to be
26 known as the Water Supply and Wastewater Infrastructure Program.
27 The program shall provide financial assistance in the form of
28 single-year or multiyear grants to municipalities and municipal
29 authorities and in the form of loans to municipalities,
30 municipal authorities, industrial development corporations and

1 investor-owned water or wastewater enterprises for projects
2 which, when completed, construct, expand or improve water and
3 wastewater infrastructure ~~which is related to economic~~ ←
4 development.

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

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

12 (2) A statement of the type and amount of financial
13 assistance sought. If the applicant is requesting financial
14 assistance in the form of a grant, the request may not exceed
15 75% of the cost of the project.

16 (3) A statement of the project, including a detailed
17 statement of the cost of the project.

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

23 (5) A firm commitment from the project user to use the
24 project upon completion.

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

28 (7) DOCUMENTATION THAT THE PROJECT MEETS AT LEAST ONE OF ←
29 THE FOLLOWING CRITERIA:

30 (I) THE PROJECT WILL REPAIR OR REHABILITATE EXISTING

1 SEWER AND WATER SYSTEMS THAT ARE UNSAFE OR UNRELIABLE AND
2 THAT THREATEN PUBLIC HEALTH AND WATER QUALITY.

3 (II) THE PROJECT WILL ELIMINATE EXISTING COMBINED
4 SEWER OVERFLOW AND SANITARY SEWER OVERFLOW PROBLEMS WHILE
5 ENSURING THAT ALL COMBINED AND SANITARY SEWAGE DISCHARGES
6 RECEIVE AT LEAST SECONDARY SEWAGE TREATMENT.

7 (III) THE PROJECT WILL PROVIDE SUPPORT FOR
8 ALTERNATIVE APPROACHES TO ADDRESS COMBINED SEWER OVERFLOW
9 AND SANITARY SEWER OVERFLOW PROBLEMS, INCLUDING
10 DISTRIBUTED STORM WATER AND DECENTRALIZED WASTEWATER
11 TREATMENT.

12 (IV) THE PROJECT WILL REPAIR, REHABILITATE OR
13 OTHERWISE USE IN-PLACE SURPLUS CAPACITY FOR ECONOMIC
14 DEVELOPMENT IN EXISTING COMMUNITIES THAT ARE CURRENTLY
15 SERVED BY EXISTING SEWER AND WATER SYSTEMS.

16 (V) THE PROJECT WILL CONSTRUCT SEWER OR WATER
17 SYSTEMS WHERE THERE ARE COMPELLING PUBLIC HEALTH ISSUES
18 OR AN ECONOMIC DEVELOPMENT PROJECT THAT CAN ONLY BE
19 RESOLVED BY CONSTRUCTING SUCH SYSTEMS. SUCH SYSTEMS MUST
20 BE GENERALLY CONSISTENT WITH APPLICABLE MUNICIPAL PLANS
21 UNDER THE ACT OF JANUARY 24, 1966 (1965 P.L.1535,
22 NO.537), KNOWN AS THE PENNSYLVANIA SEWAGE FACILITIES ACT,
23 AND COUNTY AND LOCAL COMPREHENSIVE PLANS.

24 ~~(7)~~ (8) Any other information required by the board. <—

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

26 (1) If an applicant is requesting financial assistance
27 in the form of a grant, the authority, in conjunction with
28 the Department of Environmental Protection, shall review the
29 application to determine all of the following:

30 ~~(i) That the applicant is not an investor owned~~ <—

1 ~~water or wastewater enterprise.~~

2 (I) THAT THE APPLICANT IS NOT: <—

3 (A) AN INVESTOR-OWNED WATER OR WASTEWATER
4 ENTERPRISE;

5 (B) AN INDUSTRIAL DEVELOPMENT CORPORATION WHICH
6 IS NOT EXEMPT FROM TAXATION UNDER SECTION 501(C)(3)
7 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-
8 514, 26 U.S.C. § 501(C)(3)); NOR

9 (C) ACTING THROUGH A WHOLLY OWNED SUBSIDIARY
10 WHICH IS NOT EXEMPT FROM TAXATION UNDER SECTION
11 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (26
12 U.S.C. § 501(C)(3)).

13 ~~(ii) If the project is related to economic <—~~
14 ~~development.~~

15 ~~(iii) (II) If there is a financial commitment for at <—~~
16 ~~least 25% of the project.~~

17 ~~(iv) (III) If the source of the financial commitment <—~~
18 ~~is from a responsible source.~~

19 ~~(v) (IV) If the municipality or municipal authority <—~~
20 ~~APPLICANT is firmly committed to using the project upon <—~~
21 ~~completion.~~

22 ~~(vi) (V) If the municipality or municipal authority <—~~
23 ~~APPLICANT has secured planning and permit approvals for <—~~
24 ~~the project from the Department of Environmental~~
25 ~~Protection.~~

26 ~~(vii) (VI) That the municipality or municipal <—~~
27 ~~authority APPLICANT did not receive a grant or loan under <—~~
28 ~~section 1551 (relating to Business in Our Sites Program)~~
29 ~~for the project.~~

30 ~~(viii) (VII) If the municipality or municipal <—~~

<—

1 authority APPLICANT complied with all other criteria
2 established by the board.

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

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

7 (ii) Grants under this program shall not exceed
8 \$10,000,000 in the aggregate per municipality or
9 municipal authority.

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

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

14 (4) Nothing in this subsection shall be construed to
15 prohibit the awarding of grants to municipalities in which
16 the water supply or wastewater services are provided in whole
17 or in part by an investor-owned water or wastewater
18 enterprise.

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

20 (1) If an applicant is requesting financial assistance
21 in the form of a loan, the authority, in conjunction with the
22 Department of Environmental Protection, shall review the
23 application to determine all of the following:

24 ~~(i) If the project is related to economic~~ <—
25 ~~development.~~

26 ~~(ii) (I) IF A FINANCIAL COMMITMENT EXISTS FOR ANY~~ <—
27 ~~COST OF THE PROJECT IN EXCESS OF THE AMOUNT REQUESTED.~~

28 ~~(iii) (II) If the source of the financial commitment~~ <—
29 ~~is from a responsible source.~~

30 ~~(iv) (III) If the project user is firmly committed~~ <—

1 to using the project upon completion.

2 ~~(v)~~ (IV) If the applicant has secured planning and ←
3 permit approvals for the project from the Department of
4 Environmental Protection.

5 ~~(vi)~~ (V) That the applicant did not receive a grant ←
6 or loan under section 1551 for the project.

7 ~~(vii)~~ (VI) If the applicant complied with all other ←
8 criteria established by the board.

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

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

13 (ii) Loans under this program shall not exceed
14 \$10,000,000 in the aggregate per applicant.

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

17 Section 4 5. This act shall take effect immediately. ←