
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

SENATE AMENDMENTS TO HOUSE AMENDMENTS, JULY 4, 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, FURTHER PROVIDING FOR <—
4 DEFINITIONS, FOR APPLICATION, FOR REVIEW AND FOR APPROVAL;
5 providing for water supply and wastewater infrastructure
6 capitalization; ~~authorizing debt; defining "investor owned~~ <—
7 ~~water or wastewater enterprise"; and providing FURTHER~~ <—
8 PROVIDING FOR DEFINITIONS; AUTHORIZING DEBT; AND PROVIDING
9 FOR THE FIRST INDUSTRIES PROGRAM AND for Water Supply and
10 Wastewater Infrastructure Program.

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

13 ~~Section 1. Title 12 of the Pennsylvania Consolidated~~ <—
14 ~~Statutes is amended by adding a chapter to read:~~

15 SECTION 1. THE DEFINITIONS OF "PROJECT," "PROJECT USER" AND <—
16 "RETAIL ENTERPRISE" IN SECTION 3402 OF TITLE 12 OF THE
17 PENNSYLVANIA CONSOLIDATED STATUTES, ADDED APRIL 1, 2004
18 (P.L.200, NO.23), ARE AMENDED AND THE SECTION IS AMENDED BY
19 ADDING A DEFINITION TO READ:

20 § 3402. DEFINITIONS.

1 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
2 SHALL HAVE THE MEANING GIVEN TO THEM IN THIS SECTION UNLESS THE
3 CONTEXT CLEARLY INDICATES OTHERWISE:

4 * * *

5 "PROJECT." AS FOLLOWS:

6 (1) IF THE PROJECT USER IS AN INDUSTRIAL ENTERPRISE OR
7 RETAIL ENTERPRISE:

8 (I) INFRASTRUCTURE.

9 (II) REMEDIATION OF ENVIRONMENTAL HAZARDS WHICH WERE
10 NOT CAUSED OR CONTRIBUTED TO BY THE APPLICANT OR THE
11 PROJECT USER.

12 (2) IF THE PROJECT USER IS A RESEARCH AND DEVELOPMENT
13 ENTERPRISE, MANUFACTURER, HOSPITAL, CONVENTION CENTER OR
14 HOTEL ESTABLISHMENT:

15 (I) INFRASTRUCTURE.

16 (II) REMEDIATION OF ENVIRONMENTAL HAZARDS WHICH WERE
17 NOT CAUSED OR CONTRIBUTED TO BY THE APPLICANT OR THE
18 PROJECT USER.

19 (III) INTERESTS IN LAND, BUILDINGS, STRUCTURE OR
20 IMPROVEMENTS REQUIRED BY THE PROJECT USER.

21 "PROJECT USER." AN INDUSTRIAL ENTERPRISE, RETAIL ENTERPRISE,
22 RESEARCH AND DEVELOPMENT ENTERPRISE, MANUFACTURER, HOSPITAL,
23 CONVENTION CENTER OR HOTEL ESTABLISHMENT, WHICH OWNS, LEASES OR
24 USES ALL OR ANY PART OF A PROJECT.

25 "RESEARCH AND DEVELOPMENT ENTERPRISE." A FOR-PROFIT BUSINESS
26 ENGAGED IN THE DISCOVERY OF NEW, AND THE REFINEMENT OF KNOWN,
27 SUBSTANCES, PROCESSES, PRODUCTS, THEORIES AND IDEAS.

28 "RETAIL ENTERPRISE." AN ENTITY OR ENTITIES ENGAGED IN RETAIL
29 SALES WHICH CREATED OR WILL CREATE AT LEAST 200 FULL-TIME JOBS
30 AND OCCUPIES OR WILL OCCUPY AT LEAST A 200,000-SQUARE-FOOT

1 FACILITY.

2 * * *

3 SECTION 2. SECTIONS 3404(5) AND (8), 3405(A)(7) AND
4 3406(B)(2) OF TITLE 12, ADDED APRIL 1, 2004 (P.L.200, NO.23),
5 ARE AMENDED TO READ:

6 § 3404. APPLICATION.

7 AN ISSUING AUTHORITY MAY SUBMIT AN APPLICATION TO THE
8 DEPARTMENT REQUESTING FINANCIAL ASSISTANCE FOR A PROJECT. THE
9 APPLICATION MUST BE ON A FORM REQUIRED BY THE DEPARTMENT AND
10 MUST INCLUDE ALL OF THE FOLLOWING:

11 * * *

12 (5) A STATEMENT OF THE NUMBER OF YEARS A GRANT IS BEING
13 REQUESTED. IF THE APPLICANT IS REQUESTING A GRANT FOR A
14 PROJECT OF A PROJECT USER THAT IS AN INDUSTRIAL ENTERPRISE, A
15 RETAIL ENTERPRISE, A RESEARCH AND DEVELOPMENT ENTERPRISE OR A
16 MANUFACTURER, THE REQUEST MAY NOT EXCEED TEN YEARS. IF THE
17 APPLICANT IS REQUESTING A GRANT FOR A PROJECT OF A PROJECT
18 USER THAT IS A HOSPITAL, CONVENTION CENTER OR HOTEL
19 ESTABLISHMENT, THE REQUEST MAY NOT EXCEED 20 YEARS.

20 * * *

21 [(8) IF THE PROJECT IS SOLELY FOR INFRASTRUCTURE, A
22 STATEMENT THAT A PORTION OF THE PROJECT IS BEING FUNDED UNDER
23 THE ACT OF JULY 11, 1990 (P.L.465, NO.113), KNOWN AS THE TAX
24 INCREMENT FINANCING ACT.]

25 * * *

26 § 3405. REVIEW.

27 (A) PROJECT REVIEW.--UPON RECEIVING A COMPLETED APPLICATION,
28 THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE ALL OF
29 THE FOLLOWING:

30 * * *

1 [(7) IF THE PROJECT IS SOLELY FOR INFRASTRUCTURE, THAT A
2 PORTION OF THE PROJECT IS BEING FUNDED UNDER THE TAX
3 INCREMENT FINANCING ACT.]

4 * * *

5 § 3406. APPROVAL.

6 * * *

7 (B) GRANT APPROVAL.--UPON RECEIPT OF THE NOTIFICATION
8 REQUIRED IN SUBSECTION (A), THE DEPARTMENT MAY APPROVE THE
9 APPLICATION AND AWARD THE APPLICANT A GRANT IN AN ANNUAL AMOUNT
10 NOT TO EXCEED THE AMOUNT ESTABLISHED BY THE SECRETARY OF THE
11 BUDGET. PRIOR TO PROVIDING GRANT FUNDS TO THE APPLICANT, THE
12 DEPARTMENT SHALL ENTER INTO A CONTRACT WITH THE APPLICANT AND
13 THE PROJECT USER. THE CONTRACT SHALL INCLUDE PROVISIONS WHICH DO
14 ALL OF THE FOLLOWING:

15 * * *

16 (2) SPECIFY THE TOTAL NUMBER OF YEARS THAT GRANT FUNDS
17 MAY BE PROVIDED TO THE APPLICANT. IF THE APPLICANT IS AN
18 INDUSTRIAL ENTERPRISE, A RETAIL ENTERPRISE, A RESEARCH AND
19 DEVELOPMENT ENTERPRISE OR A MANUFACTURER, THE NUMBER OF YEARS
20 MAY NOT EXCEED TEN YEARS. IF THE APPLICANT IS A HOSPITAL,
21 CONVENTION CENTER OR HOTEL ESTABLISHMENT, THE NUMBER OF YEARS
22 MAY NOT EXCEED 20 YEARS.

23 * * *

24 SECTION 3. TITLE 12 IS AMENDED BY ADDING A CHAPTER TO READ:

25 CHAPTER 39
26 WATER SUPPLY AND WASTEWATER
27 INFRASTRUCTURE CAPITALIZATION

28 Sec.

29 3901. Scope of chapter.

30 3902. Definitions.

- 1 3903. Establishment.
- 2 3904. Award of grants.
- 3 3905. Award and administration of loans.
- 4 3906. Funds.
- 5 3907. Commonwealth indebtedness.

6 § 3901. Scope of chapter.

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

9 § 3902. Definitions.

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

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

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

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

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

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

30 (3) Costs and expenses of demolishing, removing or

1 relocating buildings or structures on lands acquired or to be
2 acquired.

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

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

10 "Fund." The Water Supply and Wastewater Treatment Fund
11 established in section 3906(b) (relating to funds).

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

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

25 ~~"Nutrient Reduction Technology." Nutrient Reduction~~ <—
26 ~~Technology is wastewater treatment technology that reduces~~
27 ~~nutrients (nitrogen and phosphorous) as part of a treatment or~~
28 ~~recycling system. The term includes all of the following:~~

29 (1) ~~Biological, chemical and physical wastewater~~
30 ~~treatment.~~

1 ~~(2) System and operational modifications.~~

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

5 "Sinking fund." The Water Supply and Wastewater Treatment
6 Sinking Fund established in section 3906(b) (relating to funds).
7 § 3903. Establishment.

8 There is established within the department a program to be
9 known as the Water Supply and Wastewater Infrastructure
10 Capitalization Program. The program shall finance single-year or
11 multiyear grants to municipalities and municipal authorities and
12 loans to municipalities, municipal authorities, industrial
13 development corporations and investor-owned water or wastewater
14 enterprises for projects which are approved by the authority and
15 which, when completed, construct, expand or improve water and
16 wastewater infrastructure WHICH IS RELATED TO ECONOMIC <—
17 DEVELOPMENT.

18 § 3904. Award of grants.

19 Upon being notified by the authority that a grant has been
20 approved under 64 Pa.C.S. § 1558(c) (relating to Water Supply
21 and Wastewater Infrastructure Program) for an applicant, the
22 department shall, ~~within 45 days of receiving notice,~~ enter into <—
23 a contract with the applicant. The contract shall be for the
24 amount approved by the authority AND IF THE GRANT PROVIDED FOR <—
25 IMPROVEMENTS ON A SITE OF A PRIVATE FACILITY THAT HAS OR WILL BE
26 RECEIVING ADDITIONAL ECONOMIC DEVELOPMENT ASSISTANCE OR JOB
27 CREATION TAX CREDITS FROM THE COMMONWEALTH, THE CONTRACT SHALL
28 INCLUDE A CLAWBACK PROVISION THAT ENSURES THAT IF THE FACILITY
29 IS CLOSED OR IS SOLD WITHIN FIVE YEARS AFTER THE APPROVAL OF THE
30 APPLICATION, THE COMMONWEALTH SHALL REQUEST REIMBURSEMENT OF THE

1 GRANT AND SHALL PLACE A LIEN FOR THAT AMOUNT ON THE REAL
2 PROPERTY OF THAT FACILITY. Upon entering into a contract with
3 the applicant, the department shall award the grant for the
4 amount specified in the contract.

5 § 3905. Award and administration of loans.

6 (a) Award.--

7 (1) Upon being notified that a loan has been approved
8 under 64 Pa.C.S. § 1558(d) (relating to Water Supply and
9 Wastewater Infrastructure Program) for an applicant, the
10 department shall, ~~within 45 days of receiving notice,~~ enter ←
11 into a contract with the applicant. The contract shall be for
12 the amount approved and shall specify the terms of the loan
13 in accordance with all of the following:

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

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

18 (2) Upon entering into a contract with the applicant,
19 the department shall award the loan for the amount specified
20 in the contract.

21 (b) Administration.--Loans made under this section shall be
22 administered by the department. Loan payments received by the
23 department for a loan awarded under this section shall be
24 deposited in the General Fund.

25 § 3906. Funds.

26 (a) Proceeds.--Proceeds of the borrowing authorized by the
27 electors pursuant to the act of February 12, 2004 (P.L.72,
28 No.10), known as the Water and Wastewater Treatment Project Bond
29 Act, shall be used by the department in funding grants and loans
30 awarded under this chapter.

1 (b) Fund.--

2 (1) The Water Supply and Wastewater Treatment Fund is
3 established as a restricted fund in the State Treasury.

4 (2) The fund shall be used to carry out the purposes of
5 this chapter.

6 (c) Sinking Fund.--The Water Supply and Wastewater Treatment
7 Sinking Fund is established to make principal and interest
8 payments under section 3907(d) (relating to Commonwealth
9 indebtedness).

10 § 3907. Commonwealth indebtedness.

11 (a) Borrowing authorized.--

12 (1) Pursuant to section 7(a)(3) of Article VIII of the
13 Constitution of Pennsylvania and the approval by the
14 electorate on April 27, 2004, of the referendum authorized by
15 the act of February 12, 2004 (P.L.72, No.10), known as the
16 Water and Wastewater Treatment Project Bond Act, the issuing
17 officials are authorized and directed to borrow, on the
18 credit of the Commonwealth, money not exceeding in the
19 aggregate the sum of \$250,000,000, not including money
20 borrowed to refund outstanding bonds, notes or replacement
21 notes, as may be found necessary to carry out the purposes of
22 this chapter.

23 (2) As evidence of the indebtedness authorized in this
24 chapter, general obligation bonds of the Commonwealth shall
25 be issued to provide money necessary to carry out the
26 purposes of this chapter. The issuing officials shall direct
27 the following:

28 (i) Total principal amount.

29 (ii) Form.

30 (iii) Denomination.

1 (iv) Terms and conditions of:
2 (A) issue;
3 (B) redemption and maturity;
4 (C) rate of interest; and
5 (D) time of payment of interest, except that the
6 latest stated maturity date shall not exceed ~~20~~ 30 ←
7 years from the date of the first obligation issued to
8 evidence the debt.

9 (3) All bonds and notes issued under the authority of
10 this chapter shall bear facsimile signatures of the issuing
11 officials and a facsimile of the great seal of the
12 Commonwealth and shall be countersigned by an authorized
13 officer of an authorized loan and transfer agent of the
14 Commonwealth.

15 (4) All bonds and notes issued in accordance with this
16 chapter shall be direct obligations of the Commonwealth. The
17 full faith and credit of the Commonwealth are pledged for the
18 payment of the interest on the bonds and notes, as it becomes
19 due, and the payment of the principal at maturity. The
20 principal of and interest on the bonds and notes shall be
21 payable in lawful money of the United States.

22 (5) All bonds and notes issued under this chapter shall
23 be:

24 (i) exempt from taxation for State and local
25 purposes; and

26 (ii) eligible for tax-exempt ~~bond-funding~~ STATUS ←
27 under existing Federal law.

28 (6) The bonds may be issued as coupon bonds or
29 registered as to both principal and interest as the issuing
30 officials determine. If interest coupons are attached, they

1 shall contain the facsimile signature of the State Treasurer.

2 (7) The issuing officials shall provide for the
3 amortization of the bonds in substantial and regular amounts
4 over the term of the debt so that the bonds of each issue
5 shall mature within a period not to exceed the appropriate
6 amortization period as specified by the issuing officials,
7 but in no case in excess of ~~20~~ 30 years. The first retirement ←
8 of principal shall be stated to mature prior to the
9 expiration of a period of time equal to one-tenth of the time
10 from the date of the first obligation issued to evidence the
11 debt to the date of the expiration of the term of the debt.
12 Retirements of principal shall be regular and substantial if
13 made in annual or semiannual amounts, whether by stated
14 serial maturities or by mandatory sinking fund retirements
15 COMPUTED IN ACCORDANCE WITH EITHER A LEVEL ANNUAL DEBT ←
16 SERVICE PLAN, AS NEARLY AS MAY BE, OR UPON THE EQUAL ANNUAL
17 MATURITIES PLAN.

18 (8) The issuing officials are authorized to provide by
19 resolution for the issuance of refunding bonds for the
20 purpose of refunding debt issued under this chapter and then
21 outstanding, either by voluntary exchange with the holders of
22 the outstanding debt or by providing funds to redeem and
23 retire the outstanding debt with accrued interest, any
24 premium payable and the costs of issuance and retirement of
25 the debt, at maturity or at any call date. The issuance of
26 the refunding bonds, the maturities and other details of the
27 refunding bonds, the rights of the holders of the refunding
28 bonds and the duties of the issuing officials in respect to
29 the refunding bonds shall be governed by the applicable
30 provisions of this chapter. Refunding bonds, which are not

1 subject to the aggregate limitation of \$250,000,000 of debt
2 to be issued pursuant to this chapter, may be issued by the
3 issuing officials to refund debt originally issued or to
4 refund bonds previously issued for refunding purposes.

5 (9) If an action is to be taken or a decision is to be
6 made by the issuing officials and the three officers are not
7 able unanimously to agree, the action or decision of the
8 Governor and either the Auditor General or the State
9 Treasurer shall be binding and final.

10 (b) Sale of bonds.--

11 (1) If bonds are issued, the following apply:

12 (i) Bonds shall be offered for sale at not less than
13 98% of the principal amount and accrued interest.

14 (ii) Bonds shall be sold by the issuing officials to
15 the highest and best bidder after public advertisement on
16 the terms and conditions and upon open competitive
17 bidding as the issuing officials direct. The manner and
18 character of the advertisement and the time of
19 advertising shall be prescribed by the issuing officials.

20 (iii) No commission shall be allowed or paid for the
21 sale of any bonds issued under the authority of this
22 chapter.

23 (2) Any portion of any bond issue offered and not sold
24 or subscribed for at public sale may be disposed of by
25 private sale by the issuing officials in a manner and at a
26 price, not less than 98% of the principal amount and accrued
27 interest, as the Governor directs. No commission shall be
28 allowed or paid for the sale of any bonds issued under the
29 authority of this chapter.

30 (3) The bonds of each issue shall constitute a separate

1 series to be designated by the issuing officials or may be
2 combined for sale as one series with other general obligation
3 bonds of the Commonwealth.

4 (4) Until permanent bonds can be prepared, the issuing
5 officials may issue, in lieu of permanent bonds, temporary
6 bonds in a form and with privileges as to registration and
7 exchange for permanent bonds as determined by the issuing
8 officials.

9 (5) The proceeds realized from the sale of bonds and
10 notes, except refunding bonds and replacement notes, under
11 this chapter shall be paid into the fund and are specifically
12 dedicated to the purposes of this chapter. The proceeds shall
13 be paid by the State Treasurer periodically to the department
14 at times and in amounts as necessary to satisfy the funding
15 needs of the department under this chapter. The proceeds of
16 the sale of refunding bonds and replacement notes shall be
17 paid to the State Treasurer and applied to the payment of
18 principal, any accrued interest and premium, and cost of
19 redemption, of the bonds and notes for which the obligations
20 have been issued.

21 (6) Pending their application for the purposes
22 authorized, money held or deposited by the State Treasurer
23 may be invested or reinvested as are other funds in the
24 custody of the State Treasurer in the manner provided by law.
25 All earnings received from the investment or deposit of the
26 funds shall be paid into the State Treasury to the credit of
27 the fund.

28 (7) The Auditor General shall prepare the necessary
29 registry book to be kept in the office of the authorized loan
30 and transfer agent of the Commonwealth for the registration

1 of bonds, at the request of owners of the bonds, according to
2 the terms and conditions of issue directed by the issuing
3 officials.

4 (8) There is hereby appropriated to the State Treasurer
5 from the fund as much money as may be necessary for all costs
6 and expenses in connection with the issue of and sale and
7 registration of the bonds and notes in connection with this
8 chapter and the payment of interest arbitrage rebates.

9 (c) Temporary financing authorization.--

10 (1) Pending the issuance of bonds of the Commonwealth as
11 authorized, the issuing officials are authorized, in
12 accordance with this chapter and on the credit of the
13 Commonwealth, to make temporary borrowings not to exceed one
14 year in anticipation of the issue of bonds in order to
15 provide funds in amounts as deemed advisable prior to the
16 issue of bonds. In order to provide for and in connection
17 with any temporary borrowing, the issuing officials are
18 authorized in the name and on behalf of the Commonwealth to
19 enter into purchase, loan or credit agreement or other
20 agreement with any bank or trust company, other lending
21 institution, investment banking firm or person in the United
22 States having power to enter into the agreement. The
23 agreement may contain provisions not inconsistent with this
24 chapter as authorized by the issuing officials.

25 (2) Temporary borrowings made under this subsection
26 shall be evidenced by notes of the Commonwealth. The issuing
27 officials shall authorize and direct, in accordance with this
28 chapter, all of the following:

29 (i) Amount, not exceeding in the aggregate the
30 applicable statutory debt limitation.

- 1 (ii) Form.
- 2 (iii) Denomination.
- 3 (iv) Terms and conditions of:
 - 4 (A) sale and issue;
 - 5 (B) prepayment or redemption and maturity;
 - 6 (C) rate of interest; and
 - 7 (D) time of payment of interest.

8 (3) Authorization and direction under paragraph (2) may
9 provide for the subsequent issuance of replacement notes to
10 refund outstanding notes or replacement notes. Replacement
11 notes shall evidence borrowing and may specify other terms
12 and conditions with respect to the notes and replacement
13 notes authorized for issuance as the issuing officials
14 determine and direct.

15 (4) If the authorization and direction of the issuing
16 officials provide for the issuance of replacement notes, the
17 issuing officials are authorized in the name and on behalf of
18 the Commonwealth to issue, enter into or authorize and direct
19 the State Treasurer to enter into an agreement with any bank,
20 trust company, investment banking firm or other institution
21 or person in the United States having the power to enter into
22 the agreement:

23 (i) To purchase or underwrite an issue or series of
24 issues of notes.

25 (ii) To credit; to enter into any purchase, loan or
26 credit agreement; to draw money pursuant to the agreement
27 on the terms and conditions set forth in the agreement;
28 and to issue notes as evidence of borrowings made under
29 the agreement.

30 (iii) To appoint an issuing and paying agent with

1 respect to notes.

2 (iv) To do all acts necessary or appropriate to
3 provide for the payment, when due, of the interest on and
4 the principal of the notes.

5 (5) An agreement under paragraph (4) may provide for the
6 compensation of purchasers or underwriters of notes or
7 replacement notes by discounting the purchase price of the
8 notes or by payment of a fixed fee or commission at the time
9 of their issuance. All other costs and expenses, including
10 fees for agreements related to the notes, issuing and paying
11 agent costs and costs and expenses of issuance, may be paid
12 from the proceeds of the notes.

13 (6) If the authorization and direction of the issuing
14 officials provide for the issuance of replacement notes, the
15 State Treasurer, at or prior to the time of delivery of these
16 notes or replacement notes, shall, subject to the
17 authorization and direction of the issuing officials, do all
18 of the following:

19 (i) Determine the:
20 (A) principal amounts;
21 (B) dates of issue;
22 (C) interest rate or procedure for establishing
23 interest rates;
24 (D) rates of discount;
25 (E) denomination; and
26 (F) other terms and conditions relating to
27 issuance.

28 (ii) Perform all acts and things necessary to pay or
29 cause to be paid, when due, all principal of and interest
30 on the notes being refunded by replacement notes and to

1 assure that the payment may draw upon any money available
2 for that purpose pursuant to a purchase, loan or credit
3 agreement established with respect to the notes.

4 (7) Outstanding notes evidencing the borrowings may be
5 funded and retired by the issuance and sale of the bonds of
6 the Commonwealth as authorized in this paragraph. The
7 refunding bonds shall be issued and sold not later than a
8 date one year after the date of issuance of the first notes
9 evidencing the borrowing to the extent that payment of the
10 notes has not otherwise been made or provided for by sources
11 other than proceeds of replacement notes.

12 (8) The proceeds of all temporary borrowing shall be
13 paid to the State Treasurer to be held and disposed of in
14 accordance with this chapter.

15 (d) Debt retirement.--

16 (1) All bonds issued under the authority of this chapter
17 shall be redeemed at maturity, together with all interest
18 due. Principal and interest payments shall be paid from the
19 sinking fund. For the specific purpose of redeeming the bonds
20 at maturity and paying all interest on the bonds in
21 accordance with the information received from the Governor,
22 the General Assembly shall appropriate money for the payment
23 of interest on the bonds and notes and the principal of the
24 bonds and notes at maturity. All money paid into the sinking
25 fund and all of the money not necessary to pay accruing
26 interest shall be invested by the State Treasurer in
27 securities as are provided by law for the investment of the
28 sinking funds of the Commonwealth.

29 (2) The State Treasurer shall determine and report to
30 the Secretary of the Budget by November 1 of each year the

1 amount of money necessary for the payment of any interest on
2 outstanding obligations and the principal of the obligations
3 for the following fiscal year and the times and amounts of
4 the payments. The Governor shall include in every budget
5 submitted to the General Assembly full information relating
6 to the issuance of bonds and notes under this chapter and the
7 status of the fund and the sinking fund for the payment of
8 interest on the bonds and notes and the principal of the
9 bonds and notes at maturity.

10 (3) The General Assembly shall appropriate for deposit
11 into the sinking fund an amount equal to the sum necessary to
12 meet repayment obligations for principal and interest.

13 (e) Definition.--As used in this section, the term "issuing
14 officials" means the Governor, the Auditor General and the State
15 Treasurer.

16 Section ~~2~~ 3.1. Section 1504 of Title 64 is amended by adding <—
17 ~~a definition~~ DEFINITIONS to read: <—

18 § 1504. Definitions.

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

22 * * *

23 "COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION." A COMMUNITY <—
24 DEVELOPMENT FINANCIAL INSTITUTION CERTIFIED IN ACCORDANCE WITH
25 THE COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT
26 OF 1994 (PUBLIC LAW 103-325, 108 STAT. 2163).

27 * * *

28 "Investor-owned water or wastewater enterprise." A nonpublic
29 entity which supplies water or provides wastewater services to
30 the public for a fee.

1 * * *

2 "WASTEWATER SYSTEM." A SYSTEM FOR THE COLLECTION, TREATMENT <—
3 OR DISPOSAL OF WASTEWATER, INCLUDING INDUSTRIAL WASTE. THE TERM
4 DOES NOT INCLUDE A SYSTEM USED SOLELY

5 "WATER SYSTEM." A SYSTEM FOR THE SUPPLY, TREATMENT, STORAGE
6 OR DISTRIBUTION OF WATER. THE TERM DOES NOT INCLUDE A SYSTEM
7 USED SOLELY FOR RESIDENTIAL PURPOSES.

8 ~~Section 3. Section 1543(e) of Title 64, added April 1, 2004~~ <—
9 ~~(P.L.163, No.22), is amended to read:~~

10 SECTION 4. SECTIONS 1543(C) AND 1552(E) OF TITLE 64, ADDED <—
11 APRIL 1, 2004 (P.L.163, NO.22), ARE AMENDED TO READ:

12 § 1543. Indebtedness.

13 * * *

14 (c) Fiscal year limitations.--

15 (1) Except as provided in subsection (d) and paragraphs
16 (2), (3) and (4), the aggregate amount of indebtedness
17 incurred by the authority, including through the issuance of
18 bonds, may not exceed \$250,000,000 reduced by the aggregate
19 amount of Commonwealth indebtedness incurred [as a result of
20 the act of February 12, 2004 (P.L.72, No.10), known as the
21 Water and Wastewater Treatment Project Bond Act] under 12
22 Pa.C.S. Ch. 39 (relating to water supply and wastewater
23 infrastructure capitalization).

24 (2) Except as provided in subsection (d) and paragraphs
25 (3) and (4) and upon adoption of a resolution under
26 subsection (f)(1), the aggregate amount of indebtedness
27 incurred by the authority, including through the issuance of
28 bonds, may not exceed \$500,000,000 reduced by the aggregate
29 amount of Commonwealth indebtedness incurred [as a result of
30 the Water and Wastewater Treatment Project Bond Act] under 12

1 Pa.C.S. Ch. 39.

2 (3) Except as provided in subsection (d) and paragraph
3 (4) and upon adoption of a resolution under subsection
4 (f)(2), the aggregate amount of indebtedness incurred by the
5 authority, including through the issuance of bonds, may not
6 exceed \$750,000,000 reduced by the aggregate amount of
7 Commonwealth indebtedness incurred [as a result of the Water
8 and Wastewater Treatment Project Bond Act] under 12 Pa.C.S.
9 Ch. 39.

10 (4) Except as provided in subsection (d) and upon
11 adoption of a resolution under subsection (f)(3), the
12 aggregate amount of indebtedness incurred by the authority,
13 including through the issuance of bonds, may not exceed
14 \$1,000,000,000 reduced by the aggregate amount of
15 Commonwealth indebtedness incurred [as a result of the Water
16 and Wastewater Treatment Project Bond Act] under 12 Pa.C.S.
17 Ch. 39.

18 * * *

19 § 1552. FIRST INDUSTRIES PROGRAM. ←

20 * * *

21 (E) LOAN GUARANTEES.--

22 (1) AN APPLICANT MAY REQUEST A GUARANTEE FOR A LOAN TO
23 BE MADE BY A COMMERCIAL LENDING INSTITUTION OR COMMUNITY
24 DEVELOPMENT FINANCIAL INSTITUTION TO ASSIST WITH THE
25 FINANCING OF A PROJECT RELATED TO TOURISM OR AGRICULTURE. THE
26 APPLICANT MAY BE THE COMMERCIAL LENDING INSTITUTION OR
27 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION APPLYING ON
28 BEHALF OF A BORROWER. THE APPLICATION MUST BE ON THE FORM
29 REQUIRED BY THE BOARD AND MUST INCLUDE OR DEMONSTRATE ALL OF
30 THE FOLLOWING:

1 (I) THE APPLICANT'S NAME AND ADDRESS. IF THE
2 APPLICANT IS A COMMERCIAL LENDING INSTITUTION OR
3 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, THE
4 BORROWER'S NAME AND ADDRESS.

5 (II) A DESCRIPTION OF THE PROJECT.

6 (III) A STATEMENT DESCRIBING THE ANTICIPATED
7 ECONOMIC IMPACT TO THE COMMONWEALTH AND THE HOST
8 MUNICIPALITY AS A RESULT OF THE PROJECT.

9 (IV) A DESCRIPTION OF THE PROPOSED PROJECT
10 FINANCING, INCLUDING TERMS, CONDITIONS AND THE COLLATERAL
11 OR SECURITY REQUIRED FOR THE LOAN FOR WHICH THE GUARANTEE
12 IS BEING REQUESTED.

13 (V) A COPY OF THE APPLICANT'S LAST TWO YEARS OF
14 FINANCIAL STATEMENTS PREPARED OR REPORTED ON BY AN
15 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. IF THE APPLICANT
16 IS A COMMERCIAL LENDING INSTITUTION OR A COMMUNITY
17 DEVELOPMENT FINANCIAL INSTITUTION, A COPY OF THE
18 BORROWER'S LAST TWO YEARS OF FINANCIAL STATEMENTS
19 PREPARED OR REPORTED ON BY AN INDEPENDENT CERTIFIED
20 PUBLIC ACCOUNTANT.

21 (VI) THE AMOUNT OF THE LOAN GUARANTEE THAT IS BEING
22 REQUESTED.

23 (VII) THE TOTAL PROJECT COST AND THE IDENTIFICATION
24 OF ALL SOURCES OF CAPITAL FOR THE PROJECT.

25 (VIII) ANY OTHER INFORMATION REQUIRED BY THE BOARD.

26 (2) THE BOARD SHALL REVIEW THE APPLICATION TO DETERMINE
27 ALL OF THE FOLLOWING:

28 (I) THAT THE PROJECT HAS BEEN AWARDED A PLANNING
29 GRANT UNDER THIS SECTION OR THAT AT LEAST \$1,000,000 OF
30 PRIVATE FUNDS ARE BEING INVESTED IN THE PROJECT.

1 (II) THAT THE VALUE OF THE PROPOSED COLLATERAL IS
2 SUFFICIENT TO COVER THE FULL AMOUNT OF THE LOAN.

3 (III) THAT THE APPLICANT COMPLIED WITH ALL OTHER
4 CRITERIA ESTABLISHED BY THE BOARD.

5 (3) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
6 MET, THE BOARD MAY APPROVE THE GUARANTEE, AND, IF APPROVED,
7 THE AUTHORITY SHALL EXECUTE A GUARANTEE AGREEMENT IN FAVOR OF
8 THE COMMERCIAL LENDING INSTITUTION OR COMMUNITY DEVELOPMENT
9 FINANCIAL INSTITUTION STATING THE TERMS AND AMOUNTS OF THE
10 GUARANTEE. THE GUARANTEE MAY NOT EXCEED 50% OF THE
11 OUTSTANDING PRINCIPAL AMOUNT OF THE LOAN OR \$2,500,000 AT ANY
12 POINT IN TIME, WHICHEVER IS LESS. IN ADDITION TO ANY OTHER
13 TERMS AND CONDITIONS REQUIRED BY THE BOARD, THE GUARANTEE
14 AGREEMENT SHALL PROVIDE FOR ALL OF THE FOLLOWING:

15 (I) THE PROCEDURE FOR THE SUBMISSION BY THE
16 COMMERCIAL LENDING INSTITUTION OR COMMUNITY DEVELOPMENT
17 FINANCIAL INSTITUTION OF A CLAIM FOR PAYMENT. THIS
18 PROCEDURE SHALL REQUIRE THAT THE COMMERCIAL LENDING
19 INSTITUTION OR COMMUNITY DEVELOPMENT FINANCIAL
20 INSTITUTION DEMONSTRATE THAT IT HAS EXHAUSTED ALL
21 AVAILABLE REMEDIES AGAINST THE BORROWER, OTHER GUARANTORS
22 AND COLLATERAL BEFORE SEEKING PAYMENT UNDER THE
23 AGREEMENT.

24 (II) A REQUIREMENT THAT A PERCENTAGE OF ANY MONEYS
25 RECOVERED SUBSEQUENT TO THE PAYMENT OF A CLAIM BY THE
26 AUTHORITY BE REMITTED TO THE AUTHORITY.

27 (III) PERIODIC REPORTING REQUIREMENTS BY THE
28 COMMERCIAL LENDING INSTITUTION OR COMMUNITY DEVELOPMENT
29 FINANCIAL INSTITUTION REGARDING ITSELF AND REGARDING THE
30 LOANS WHICH HAVE BEEN AWARDED GUARANTEES UNDER THIS

1 SECTION.

2 (4) THE BOARD MAY ESTABLISH A SUBCOMMITTEE COMPOSED OF
3 ONE OR MORE BOARD MEMBERS AND DEPARTMENT STAFF TO SUPERVISE
4 THE PROGRESS OF PROJECTS FOR WHICH LOAN GUARANTEES HAVE BEEN
5 AWARDED UNDER THIS SECTION.

6 * * *

7 Section 4 5. Title 64 is amended by adding a section to
8 read:

9 § 1558. Water Supply and Wastewater Infrastructure Program.

10 (a) Establishment.--There is established a program to be
11 known as the Water Supply and Wastewater Infrastructure Program.
12 The program shall provide financial assistance in the form of
13 single-year or multiyear grants to municipalities and municipal
14 authorities and in the form of loans to municipalities,
15 municipal authorities, industrial development corporations and
16 investor-owned water or wastewater enterprises for projects
17 which, when completed, construct, expand or improve water and
18 wastewater infrastructure WHICH IS RELATED TO ECONOMIC
19 DEVELOPMENT.

20 (b) Application.--A municipality, a municipal authority, an
21 industrial development corporation or an investor-owned water or
22 wastewater enterprise may submit an application to the authority
23 requesting financial assistance for a project. The application
24 must be on the form required by the board and must include or
25 demonstrate all of the following:

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

27 (2) A statement of the type and amount of financial
28 assistance sought. If the applicant is requesting financial
29 assistance in the form of a grant, the request may not exceed
30 75% of the cost of the project.

1 (3) A statement of the project, including a detailed
2 statement of the cost of the project.

3 (4) A financial commitment from a responsible source for
4 any cost of the project in excess of the amount requested. If
5 the applicant is requesting financial assistance in the form
6 of a grant from the department, the financial commitment may
7 not be in the form of a grant from a Commonwealth agency.

8 (5) A firm commitment from the project user to use the
9 project upon completion.

10 (6) Proof that the applicant has secured planning and
11 permit approvals for the project from the Department of
12 Environmental Protection.

13 ~~(7) Documentation that the project meets at least one of~~ <—
14 ~~the following criteria:~~

15 ~~(i) The project will repair or rehabilitate existing~~
16 ~~sewer and water systems that are unsafe or unreliable and~~
17 ~~that threaten public health and water quality.~~

18 ~~(ii) The project will eliminate existing combined~~
19 ~~sewer overflow and sanitary sewer overflow problems while~~
20 ~~ensuring that all combined and sanitary sewage discharges~~
21 ~~comply with Federal and State requirements pursuant to~~
22 ~~the Federal Water Pollution Control Act (62 Stat. 1155,~~
23 ~~33 U.S.C. § 1251 et seq.) and the act of June 22, 1937~~
24 ~~(P.L.1987, No.394), known as The Clean Streams Law.~~

25 ~~(iii) The project will provide support for~~
26 ~~alternative approaches to address combined sewer overflow~~
27 ~~and sanitary sewer overflow problems, including~~
28 ~~distributed storm water and decentralized wastewater~~
29 ~~treatment.~~

30 ~~(iv) The project will repair, rehabilitate or~~

~~otherwise use in place surplus capacity for economic development in existing communities that are currently served by existing sewer and water systems.~~

~~(v) The project will construct sewer or water infrastructures where there are compelling public health or environmental issues or an economic development project that redevelops, reuses or revitalizes previously developed land and can only be resolved by constructing such infrastructures. Such infrastructures must be generally consistent with applicable municipal plans under the act of January 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities Act, and county and local comprehensive plans.~~

~~(vi) The project will be designed, installed and operated for purposes that benefit the environment or improve public health including the design, installation and operation of nutrient reduction technology at municipal wastewater treatment plants that contribute to the impairment of local or downstream water quality or impact living resources or public health.~~

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

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

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

~~(i) That the applicant is not:~~ <—

~~(A) an investor owned water or wastewater enterprise;~~

~~(B) an industrial development corporation which~~

~~is not exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); nor~~

~~(C) acting through a wholly owned subsidiary which is not exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)).~~

~~(ii) If there is a financial commitment for at least 25% of the project.~~

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

~~(iv) If the applicant is firmly committed to using the project upon completion.~~

~~(v) If the~~

~~(I) THAT THE APPLICANT IS NOT AN INVESTOR-OWNED WATER OR WASTEWATER ENTERPRISE.~~

~~(II) IF THE PROJECT IS RELATED TO ECONOMIC DEVELOPMENT.~~

~~(III) IF THERE IS A FINANCIAL COMMITMENT FOR AT LEAST 25% OF THE PROJECT.~~

~~(IV) IF THE SOURCE OF THE FINANCIAL COMMITMENT IS FROM A RESPONSIBLE SOURCE.~~

~~(V) IF THE APPLICANT IS FIRMLY COMMITTED TO USING THE PROJECT UPON COMPLETION.~~

~~(VI) IF THE applicant has secured planning and permit approvals for the project from the Department of Environmental Protection. The project must be generally consistent with applicable municipal plans under the Pennsylvania Sewage Facilities Act, and county and ANY APPLICABLE COUNTY OR local comprehensive plans.~~

<—

<—

<—

1 ~~(vi)~~ (VII) That the applicant did not receive a <—
2 grant or loan under section 1551 (relating to Business in
3 Our Sites Program) for the project.

4 ~~(vii)~~ (VIII) If the applicant complied with all <—
5 other criteria established by the board.

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

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

10 (ii) Grants under this program shall not exceed
11 \$10,000,000 in the aggregate per municipality or
12 municipal authority.

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

15 ~~(iv) Any grant provided for economic development~~ <—
16 ~~under this section that pays for more than \$500,000 in~~
17 ~~infrastructure improvements, water supply or wastewater~~
18 ~~facilities located on the site of a private facility that~~
19 ~~has or will be receiving additional economic development~~
20 ~~assistance or job creation tax credits from the~~
21 ~~Commonwealth shall include a clawback provision that~~
22 ~~ensures that if the facility is closed or is sold within~~
23 ~~five years after the approval of the application, the~~
24 ~~Commonwealth shall request reimbursement for the specific~~
25 ~~cost of that infrastructure and shall place a lien for~~
26 ~~that amount on the real property of that facility.~~

27 (IV) THE BOARD HAS RECEIVED NOTICE FROM THE <—
28 SECRETARY OF THE BUDGET THAT THE PROJECT SATISFIES THE
29 FEDERAL TAX STATUS REQUIREMENTS OF ANY BONDS USED TO FUND
30 THE GRANT.

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 ~~(i)~~ (II) If a financial commitment exists for any <—
16 cost of the project in excess of the amount requested.

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

19 ~~(iii)~~ (IV) If the project user is firmly committed <—
20 to using the project upon completion.

21 ~~(iv)~~ (V) If the applicant has secured planning and <—
22 permit approvals for the project from the Department of
23 Environmental Protection. The project must be generally
24 consistent with applicable municipal plans under the <—
25 Pennsylvania Sewage Facilities Act, and county and local
26 comprehensive plans.

27 ~~(v) That the applicant did not receive a grant or~~ <—
28 loan under section 1551 for the project.

29 (vi) If the applicant complied with all other
30 criteria established by the board.

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

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

5 (ii) Loans under this program shall not exceed
6 ~~\$10,000,000~~ \$25,000,000 in the aggregate per applicant. <—

7 (III) THE BOARD SHALL GIVE PRIORITY CONSIDERATION TO <—
8 PROJECTS WHICH WILL RESULT IN THE INVESTMENT OF PRIVATE
9 CAPITAL IN PENNSYLVANIA ENTERPRISES AND COMMUNITIES AND
10 IN THE CREATION OF NEW JOBS IN THIS COMMONWEALTH. THE
11 BOARD MAY ALSO CONSIDER PROJECTS WHICH:

12 (A) ARE NECESSARY FOR AND INTEGRAL TO THE
13 REDEVELOPMENT OF A PREVIOUSLY USED SITE;

14 (B) WILL REHABILITATE OR REPLACE EXISTING
15 INFRASTRUCTURE WHICH IS FAILING; OR

16 (C) WILL DEVELOP OR REDEVELOP A SITE WHICH IS
17 PLANNED FOR DEVELOPMENT AND IS GENERALLY CONSISTENT
18 WITH COUNTY AND LOCAL COMPREHENSIVE PLANS.

19 (IV) THE BOARD MUST RECEIVE NOTICE FROM THE
20 SECRETARY OF THE BUDGET THAT THE PROJECT SATISFIES THE
21 FEDERAL TAX STATUS REQUIREMENTS OF ANY BONDS USED TO FUND
22 THE LOAN.

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

25 (e) Report to General Assembly.--

26 (1) The authority shall submit an annual report to the
27 General Assembly no later than September 1 following the
28 first fiscal year, or any portion thereof, in which the
29 program is in effect, and no later than September 1 for all
30 succeeding fiscal years in which the program is in effect.

1 The report shall include a list of all of the recipients of
2 grants and loans awarded by the authority in the previous
3 fiscal year, the amount of the grants or loans awarded, a
4 description of the project and the public purposes that it
5 advances and the documentation submitted by the applicant
6 demonstrating that the project met at least one of the
7 criteria of subsection (b)(7).

8 (2) The authority shall post a copy of the report to the
9 General Assembly on the World Wide Web site of the Department
10 of Community and Economic Development and the World Wide Web
11 site of the Department of Environmental Protection. The
12 reports shall remain on the sites until the reports for the
13 next year are posted.

14 (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "PROJECT" <—
15 INCLUDES AN ACTIVITY TO:

16 (1) ACQUIRE LAND, EASEMENTS OR RIGHTS-OF-WAY; OR
17 (2) CONSTRUCT, IMPROVE, EXPAND, EXTEND, REPAIR OR
18 REHABILITATE A WATER SYSTEM OR WASTEWATER SYSTEM ARISING FROM
19 AN ECONOMIC DEVELOPMENT PROJECT.

20 Section 5 6. This act shall take effect immediately. <—