
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, NOVEMBER 19, 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.~~ FURTHER PROVIDING, IN <—
11 INFRASTRUCTURE AND FACILITIES IMPROVEMENT, FOR DEFINITIONS,
12 FOR APPLICATION, FOR REVIEW AND FOR APPROVAL; PROVIDING FOR
13 WATER SUPPLY AND WASTEWATER INFRASTRUCTURE CAPITALIZATION;
14 FURTHER PROVIDING, IN THE COMMONWEALTH FINANCING AUTHORITY,
15 FOR DEFINITIONS, FOR INDEBTEDNESS AND FOR THE FIRST
16 INDUSTRIES PROGRAM; AND PROVIDING FOR THE WATER SUPPLY AND
17 WASTEWATER INFRASTRUCTURE PROGRAM AND FOR THE INCURRING OF
18 DEBT IN ORDER TO FACILITATE THE FINANCING BY PENNVEST OF THE
19 REPAIR OF EXISTING WATER AND WASTEWATER PROJECTS.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

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

24 SECTION 1. THE DEFINITIONS OF "PROJECT," "PROJECT USER" AND <—
25 "RETAIL ENTERPRISE" IN SECTION 3402 OF TITLE 12 OF THE

1 PENNSYLVANIA CONSOLIDATED STATUTES, ADDED APRIL 1, 2004
2 (P.L.200, NO.23), ARE AMENDED AND THE SECTION IS AMENDED BY
3 ADDING A DEFINITION TO READ:

4 § 3402. 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 "PROJECT." AS FOLLOWS:

10 (1) IF THE PROJECT USER IS AN INDUSTRIAL ENTERPRISE OR
11 RETAIL ENTERPRISE:

12 (I) INFRASTRUCTURE.

13 (II) REMEDIATION OF ENVIRONMENTAL HAZARDS WHICH WERE
14 NOT CAUSED OR CONTRIBUTED TO BY THE APPLICANT OR THE
15 PROJECT USER.

16 (2) IF THE PROJECT USER IS A RESEARCH AND DEVELOPMENT
17 ENTERPRISE, MANUFACTURER, HOSPITAL, CONVENTION CENTER OR
18 HOTEL ESTABLISHMENT:

19 (I) INFRASTRUCTURE.

20 (II) REMEDIATION OF ENVIRONMENTAL HAZARDS WHICH WERE
21 NOT CAUSED OR CONTRIBUTED TO BY THE APPLICANT OR THE
22 PROJECT USER.

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

25 "PROJECT USER." AN INDUSTRIAL ENTERPRISE, RETAIL ENTERPRISE,
26 RESEARCH AND DEVELOPMENT ENTERPRISE, MANUFACTURER, HOSPITAL,
27 CONVENTION CENTER OR HOTEL ESTABLISHMENT, WHICH OWNS, LEASES OR
28 USES ALL OR ANY PART OF A PROJECT.

29 "RESEARCH AND DEVELOPMENT ENTERPRISE." A FOR-PROFIT BUSINESS
30 ENGAGED IN THE DISCOVERY OF NEW, AND THE REFINEMENT OF KNOWN,

1 SUBSTANCES, PROCESSES, PRODUCTS, THEORIES AND IDEAS.

2 "RETAIL ENTERPRISE." AN ENTITY OR ENTITIES ENGAGED IN RETAIL
3 SALES WHICH CREATED OR WILL CREATE AT LEAST 200 FULL-TIME JOBS
4 AND OCCUPIES OR WILL OCCUPY AT LEAST A 200,000-SQUARE-FOOT
5 FACILITY.

6 * * *

7 SECTION 2. SECTIONS 3404(5) AND (8), 3405(A)(7) AND
8 ~~3406(B)(2)~~ 3406(B)(1), (2) AND (3) OF TITLE 12, ADDED APRIL 1, <—
9 2004 (P.L.200, NO.23), ARE AMENDED TO READ:

10 § 3404. APPLICATION.

11 AN ISSUING AUTHORITY MAY SUBMIT AN APPLICATION TO THE
12 DEPARTMENT REQUESTING FINANCIAL ASSISTANCE FOR A PROJECT. THE
13 APPLICATION MUST BE ON A FORM REQUIRED BY THE DEPARTMENT AND
14 MUST INCLUDE ALL OF THE FOLLOWING:

15 * * *

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

24 * * *

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

29 * * *

30 § 3405. REVIEW.

1 (A) PROJECT REVIEW.--UPON RECEIVING A COMPLETED APPLICATION,
2 THE DEPARTMENT SHALL REVIEW THE APPLICATION TO DETERMINE ALL OF
3 THE FOLLOWING:

4 * * *

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

8 * * *

9 § 3406. APPROVAL.

10 * * *

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

19 * * *

20 (1) SPECIFY THE BASE AMOUNT OF THE GRANT PER YEAR [FOR
21 THE FIRST THREE YEARS].

22 (2) SPECIFY THE TOTAL NUMBER OF YEARS THAT GRANT FUNDS
23 MAY BE PROVIDED TO THE APPLICANT. IF THE APPLICANT IS AN
24 INDUSTRIAL ENTERPRISE, A RETAIL ENTERPRISE, A RESEARCH AND
25 DEVELOPMENT ENTERPRISE OR A MANUFACTURER, THE NUMBER OF YEARS
26 MAY NOT EXCEED TEN YEARS. IF THE APPLICANT IS A HOSPITAL,
27 CONVENTION CENTER OR HOTEL ESTABLISHMENT, THE NUMBER OF YEARS
28 MAY NOT EXCEED 20 YEARS.

29 * * *

30 (3) IF THE GRANT WILL BE AWARDED FOR MORE THAN [THREE]

1 FOUR YEARS, ESTABLISH THE PROCEDURE FOR [THE AWARD OF A]
2 AWARDING THE GRANT AFTER THE FOURTH YEAR [THREE]. TO PROVIDE
3 A GRANT BEYOND THE INITIAL [THREE-YEAR] FOUR-YEAR PERIOD, THE
4 APPLICANT SHALL BE REQUIRED TO DEMONSTRATE TO THE
5 SATISFACTION OF THE DEPARTMENT, THE SECRETARY OF THE BUDGET
6 AND THE DEPARTMENT OF REVENUE [ALL OF THE FOLLOWING:

7 (I) THAT THE TAX REVENUES SPECIFIED IN SECTION 3405
8 DURING THE FIRST OR SECOND YEAR GENERATED AN AMOUNT EQUAL
9 TO OR EXCEEDING THE AMOUNT OF THE GRANT AWARDED FOR THAT
10 YEAR.

11 (II) THAT THE TAX REVENUES SPECIFIED IN SECTION
12 3405(A) DURING THE THIRD YEAR ARE ANTICIPATED TO BE EQUAL
13 TO OR EXCEED THE AMOUNT OF THE GRANT TO BE AWARDED DURING
14 THE THIRD YEAR.

15 (III) THAT THE TAX REVENUES SPECIFIED IN SECTION
16 3405(A) DURING THE SUCCEEDING TWO-YEAR PERIOD ARE
17 ANTICIPATED TO BE EQUAL TO OR EXCEED THE AMOUNT OF THE
18 GRANT TO BE AWARDED DURING THAT SAME PERIOD. GRANTS MUST
19 BE VERIFIED PRIOR TO ANY SUBSEQUENT REQUEST BEING
20 GRANTED.

21 (IV) THAT THE AMOUNT OF THE ANNUAL GRANT REQUESTED
22 IN YEAR FOUR AND THEREAFTER WILL NOT EXCEED THE AMOUNT OF
23 THE ANNUAL DEBT SERVICE OWED ON THE PROJECT.] THAT THE
24 TAX REVENUES SPECIFIED IN SECTION 3405 ARE ANTICIPATED TO
25 BE EQUAL TO OR EXCEED THE AMOUNT OF THE GRANT AWARDED IN
26 THE PREVIOUS YEAR. IF THE DEPARTMENT, THE SECRETARY OF
27 THE BUDGET AND THE DEPARTMENT OF REVENUE DETERMINE THAT
28 THE TAX REVENUES SPECIFIED IN SECTION 3405 ARE
29 ANTICIPATED TO EQUAL OR EXCEED THE AMOUNT SPECIFIED IN
30 PARAGRAPH (1), THE APPLICANT SHALL BE AWARDED A GRANT FOR

1 THAT YEAR IN THE AMOUNT SPECIFIED IN PARAGRAPH (1). IF
2 THE DEPARTMENT, THE SECRETARY OF THE BUDGET AND THE
3 DEPARTMENT OF REVENUE DETERMINE THAT THE TAX REVENUES
4 SPECIFIED IN SECTION 3405 WILL NOT EQUAL OR EXCEED THE
5 AMOUNT SPECIFIED IN PARAGRAPH (1), THE APPLICANT SHALL BE
6 AWARDED A GRANT EQUAL TO THE ANTICIPATED TAX REVENUES
7 SPECIFIED IN SECTION 3405 FOR THAT YEAR.

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

9 CHAPTER 39

10 WATER SUPPLY AND WASTEWATER

11 INFRASTRUCTURE CAPITALIZATION

12 Sec.

13 3901. Scope of chapter.

14 3902. Definitions.

15 3903. Establishment.

16 3904. Award of grants.

17 3905. Award and administration of loans.

18 3906. Funds.

19 3907. Commonwealth indebtedness.

20 § 3901. Scope of chapter.

21 This chapter relates to the Water Supply and Wastewater
22 Infrastructure Capitalization Program.

23 § 3902. Definitions.

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

27 "Applicant." A municipality, a municipal authority,
28 industrial development corporation or an investor-owned water or
29 wastewater enterprise that submits an application under 64
30 Pa.C.S. § 1558 (relating to Water Supply and Wastewater

1 Infrastructure Program).

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

4 "Cost of a WATER project." Any of the following: <—

5 (1) Costs and expenses of acquisition of interests in
6 land, infrastructure, buildings, structures, equipment,
7 furnishings, fixtures and other tangible property which
8 comprises the WATER project. <—

9 (2) Costs and expenses of construction, reconstruction,
10 erection, equipping, expansion, improvement, installation,
11 rehabilitation, renovation or repair of infrastructure,
12 buildings, structures, equipment and fixtures which comprise
13 the WATER project. <—

14 (3) Costs and expenses of demolishing, removing or
15 relocating buildings or structures on lands acquired or to be
16 acquired.

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

19 (5) Costs and expenses of engineering services,
20 financial services, accounting services, legal services,
21 plans, specifications, studies and surveys necessary or
22 incidental to determining the feasibility or practicability
23 of the WATER project. <—

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

26 "Industrial development corporation." An entity certified as
27 an industrial development agency by the Pennsylvania Industrial
28 Development Authority Board under the act of May 17, 1956 (1955
29 P.L.1609, No.537), known as the Pennsylvania Industrial
30 Development Authority Act.

1 "Investor-owned water or wastewater enterprise." A nonpublic
2 entity which supplies water or provides wastewater services to
3 the public for a fee.

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

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

13 (1) ~~Biological, chemical and physical wastewater~~
14 ~~treatment.~~

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

16 ~~"Project." An activity approved for a grant or loan under 64~~ <—
17 ~~Pa.C.S. § 1558 (relating to Water Supply and Wastewater~~
18 ~~Infrastructure Program).~~

19 "Sinking fund." The Water Supply and Wastewater Treatment
20 Sinking Fund established in section 3906(b) (relating to funds).

21 "WATER PROJECT." AS THAT TERM IS DEFINED IN 64 PA.C.S. § <—
22 1504 (RELATING TO DEFINITIONS).

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 WATER projects which are approved by the <—

1 authority ~~and~~, which, when completed, construct, expand or <—
2 improve water and wastewater infrastructure ~~WHICH IS AND WHICH~~ <—
3 ARE 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 an applicant, the
8 department shall, ~~within 45 days of receiving notice,~~ enter into <—
9 a contract with the applicant. The contract shall be for the
10 amount approved by the authority AND IF THE GRANT PROVIDED FOR <—
11 IMPROVEMENTS ON A SITE OF A PRIVATE FACILITY THAT HAS OR WILL BE
12 RECEIVING ADDITIONAL ECONOMIC DEVELOPMENT ASSISTANCE OR JOB
13 CREATION TAX CREDITS FROM THE COMMONWEALTH, THE CONTRACT SHALL
14 INCLUDE A ~~CLAWBACK~~ PROVISION THAT ENSURES THAT IF THE FACILITY <—
15 IS CLOSED OR IS SOLD WITHIN FIVE YEARS AFTER THE APPROVAL OF THE
16 APPLICATION, THE COMMONWEALTH SHALL REQUEST REIMBURSEMENT OF THE
17 GRANT AND SHALL PLACE A LIEN FOR THAT AMOUNT ON THE REAL
18 PROPERTY OF THAT FACILITY TO REMAIN ON THE REAL PROPERTY UNTIL <—
19 THE COMMONWEALTH RECEIVES REIMBURSEMENT. Upon entering into a
20 contract with the applicant, the department shall award the
21 grant for the amount specified in the contract.

22 § 3905. Award and administration of loans.

23 (a) Award.--

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

1 (i) A loan shall be at an interest rate not to
2 exceed ~~1%~~ 2%. <—

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

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

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

12 § 3906. Funds.

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

18 (b) Fund.--

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

21 ~~(2) The fund shall be used to carry out the purposes of~~ <—
22 ~~this chapter.~~

23 (2) THE FUND SHALL BE USED IN ACCORDANCE WITH THE <—
24 FOLLOWING:

25 (I) \$200,000,000 SHALL BE USED BY THE DEPARTMENT TO
26 FUND GRANTS AND LOANS IN ACCORDANCE WITH THIS CHAPTER.

27 (II) \$50,000,000 SHALL BE USED BY THE PENNSYLVANIA
28 INFRASTRUCTURE INVESTMENT AUTHORITY TO FINANCE PROJECTS
29 OF EXISTING WATER AND WASTEWATER SYSTEMS, WHICH WHEN
30 COMPLETE, DO ANY OF THE FOLLOWING:

1 (A) REPAIR, REHABILITATE OR MODERNIZE EXISTING
2 WATER OR WASTEWATER SYSTEMS TO MEET ENVIRONMENTAL OR
3 PUBLIC HEALTH STANDARDS.

4 (B) ELIMINATE EXISTING COMBINED OR SANITARY
5 WASTEWATER OVERFLOW PROBLEMS.

6 (C) CONSTRUCT WATER OR WASTEWATER INFRASTRUCTURE
7 TO IMPROVE PUBLIC HEALTH OR ELIMINATE ENVIRONMENTAL
8 CONCERNS.

9 (D) CONSTRUCT WASTEWATER INFRASTRUCTURE
10 UTILIZING NUTRIENT REDUCTION TECHNOLOGY.

11 (c) Sinking Fund.--The Water Supply and Wastewater Treatment
12 Sinking Fund is established to make principal and interest
13 payments under section 3907(d) (relating to Commonwealth
14 indebtedness).

15 § 3907. Commonwealth indebtedness.

16 (a) Borrowing authorized.--

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

28 ~~(2) As evidence of the indebtedness authorized in this~~ <—
29 ~~chapter, general obligation bonds of the Commonwealth shall~~
30 ~~be issued to provide money necessary to carry out the~~

1 ~~purposes of this chapter. The issuing officials shall direct~~
2 ~~the following:~~

3 ~~(i) Total principal amount.~~

4 ~~(ii) Form.~~

5 ~~(iii) Denomination.~~

6 ~~(iv) Terms and conditions of:~~

7 ~~(A) issue;~~

8 ~~(B) redemption and maturity;~~

9 ~~(C) rate of interest; and~~

10 ~~(D) time of payment of interest, except that the~~
11 ~~latest stated maturity date shall not exceed 20 30 <—~~
12 ~~years from the date of the first obligation issued to~~
13 ~~evidence the debt.~~

14 ~~(3) All bonds and notes issued under the authority of~~
15 ~~this chapter shall bear facsimile signatures of the issuing~~
16 ~~officials and a facsimile of the great seal of the~~
17 ~~Commonwealth and shall be countersigned by an authorized~~
18 ~~officer of an authorized loan and transfer agent of the~~
19 ~~Commonwealth.~~

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

27 ~~(5) (2) All bonds and notes issued under this chapter <—~~
28 ~~shall be:~~

29 ~~(i) exempt from taxation for State and local~~
30 ~~purposes; and~~

1 (ii) eligible for tax-exempt bond funding STATUS <—
2 under existing Federal law.

3 ~~(6) The bonds may be issued as coupon bonds or <—
4 registered as to both principal and interest as the issuing
5 officials determine. If interest coupons are attached, they
6 shall contain the facsimile signature of the State Treasurer.~~

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

23 ~~(8) The issuing officials are authorized to provide by
24 resolution for the issuance of refunding bonds for the
25 purpose of refunding debt issued under this chapter and then
26 outstanding, either by voluntary exchange with the holders of
27 the outstanding debt or by providing funds to redeem and
28 retire the outstanding debt with accrued interest, any
29 premium payable and the costs of issuance and retirement of
30 the debt, at maturity or at any call date. The issuance of~~

1 ~~the refunding bonds, the maturities and other details of the~~
2 ~~refunding bonds, the rights of the holders of the refunding~~
3 ~~bonds and the duties of the issuing officials in respect to~~
4 ~~the refunding bonds shall be governed by the applicable~~
5 ~~provisions of this chapter. Refunding bonds, which are not~~
6 ~~subject to the aggregate limitation of \$250,000,000 of debt~~
7 ~~to be issued pursuant to this chapter, may be issued by the~~
8 ~~issuing officials to refund debt originally issued or to~~
9 ~~refund bonds previously issued for refunding purposes.~~

10 ~~(9) If an action is to be taken or a decision is to be~~
11 ~~made by the issuing officials and the three officers are not~~
12 ~~able unanimously to agree, the action or decision of the~~
13 ~~Governor and either the Auditor General or the State~~
14 ~~Treasurer shall be binding and final.~~

15 ~~(b) Sale of bonds.—~~

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

17 ~~(i) Bonds shall be offered for sale at not less than~~
18 ~~98% of the principal amount and accrued interest.~~

19 ~~(ii) Bonds shall be sold by the issuing officials to~~
20 ~~the highest and best bidder after public advertisement on~~
21 ~~the terms and conditions and upon open competitive~~
22 ~~bidding as the issuing officials direct. The manner and~~
23 ~~character of the advertisement and the time of~~
24 ~~advertising shall be prescribed by the issuing officials.~~

25 ~~(iii) No commission shall be allowed or paid for the~~
26 ~~sale of any bonds issued under the authority of this~~
27 ~~chapter.~~

28 ~~(2) Any portion of any bond issue offered and not sold~~
29 ~~or subscribed for at public sale may be disposed of by~~
30 ~~private sale by the issuing officials in a manner and at a~~

1 ~~price, not less than 98% of the principal amount and accrued~~
2 ~~interest, as the Governor directs. No commission shall be~~
3 ~~allowed or paid for the sale of any bonds issued under the~~
4 ~~authority of this chapter.~~

5 ~~(3) The bonds of each issue shall constitute a separate~~
6 ~~series to be designated by the issuing officials or may be~~
7 ~~combined for sale as one series with other general obligation~~
8 ~~bonds of the Commonwealth.~~

9 ~~(4) Until permanent bonds can be prepared, the issuing~~
10 ~~officials may issue, in lieu of permanent bonds, temporary~~
11 ~~bonds in a form and with privileges as to registration and~~
12 ~~exchange for permanent bonds as determined by the issuing~~
13 ~~officials.~~

14 (3) BORROWING AUTHORIZED UNDER PARAGRAPH (1) SHALL BE <—
15 MADE IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 307 AND
16 308 OF THE ACT OF FEBRUARY 9, 1999 (P.L.1, NO.1), KNOWN AS
17 THE CAPITAL FACILITIES DEBT ENABLING ACT.

18 (B) SALE OF BONDS.--

19 (1) IF BONDS ARE ISSUED, ALL SALES OF THE BONDS SHALL BE
20 MADE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 309 OF THE
21 CAPITAL FACILITIES DEBT ENABLING ACT.

22 ~~(5)~~ (2) The proceeds realized from the sale of bonds and <—
23 notes, except refunding bonds and replacement notes, under
24 this chapter shall be paid into the fund and are specifically
25 dedicated to the purposes of this chapter. The proceeds shall
26 be paid by the State Treasurer periodically to the department
27 at times and in amounts as necessary to satisfy the funding
28 needs of the department under this chapter. The proceeds of
29 the sale of refunding bonds and replacement notes shall be
30 paid to the State Treasurer and applied to the payment of

1 principal, any accrued interest and premium, and cost of
2 redemption, of the bonds and notes for which the obligations
3 have been issued.

4 ~~(6)~~ (3) Pending their application for the purposes ←
5 authorized, money held or deposited by the State Treasurer
6 may be invested or reinvested as are other funds in the
7 custody of the State Treasurer in the manner provided by law.
8 All earnings received from the investment or deposit of the
9 funds shall be paid into the State Treasury to the credit of
10 the fund.

11 ~~(7)~~ (4) The Auditor General shall prepare the necessary ←
12 registry book to be kept in the office of the authorized loan
13 and transfer agent of the Commonwealth for the registration
14 of bonds, at the request of owners of the bonds, according to
15 the terms and conditions of issue directed by the issuing
16 officials.

17 ~~(8)~~ (5) There is hereby appropriated to the State ←
18 Treasurer from the fund as much money as may be necessary for
19 all costs and expenses in connection with the issue of and
20 sale and registration of the bonds and notes in connection
21 with this chapter and the payment of interest arbitrage
22 rebates.

23 (c) Temporary financing authorization.--

24 (1) Pending the issuance of bonds of the Commonwealth as
25 authorized, the issuing officials are authorized, in
26 accordance with this chapter and on the credit of the
27 Commonwealth, to make temporary borrowings not to exceed one
28 year in anticipation of the issue of bonds in order to
29 provide funds in amounts as deemed advisable prior to the
30 issue of bonds. In order to provide for and in connection

1 with any temporary borrowing, the issuing officials are
2 authorized in the name and on behalf of the Commonwealth to
3 enter into purchase, loan or credit agreement or other
4 agreement with any bank or trust company, other lending
5 institution, investment banking firm or person in the United
6 States having power to enter into the agreement. The
7 agreement may contain provisions not inconsistent with this
8 chapter as authorized by the issuing officials.

9 ~~(2) Temporary borrowings made under this subsection~~ ←
10 ~~shall be evidenced by notes of the Commonwealth. The issuing~~
11 ~~officials shall authorize and direct, in accordance with this~~
12 ~~chapter, all of the following:~~

13 ~~(i) Amount, not exceeding in the aggregate the~~
14 ~~applicable statutory debt limitation.~~

15 ~~(ii) Form.~~

16 ~~(iii) Denomination.~~

17 ~~(iv) Terms and conditions of:~~

18 ~~(A) sale and issue;~~

19 ~~(B) prepayment or redemption and maturity;~~

20 ~~(C) rate of interest; and~~

21 ~~(D) time of payment of interest.~~

22 ~~(3) Authorization and direction under paragraph (2) may~~
23 ~~provide for the subsequent issuance of replacement notes to~~
24 ~~refund outstanding notes or replacement notes. Replacement~~
25 ~~notes shall evidence borrowing and may specify other terms~~
26 ~~and conditions with respect to the notes and replacement~~
27 ~~notes authorized for issuance as the issuing officials~~
28 ~~determine and direct.~~

29 ~~(4) If the authorization and direction of the issuing~~
30 ~~officials provide for the issuance of replacement notes, the~~

1 ~~issuing officials are authorized in the name and on behalf of~~
2 ~~the Commonwealth to issue, enter into or authorize and direct~~
3 ~~the State Treasurer to enter into an agreement with any bank,~~
4 ~~trust company, investment banking firm or other institution~~
5 ~~or person in the United States having the power to enter into~~
6 ~~the agreement:~~

7 ~~(i) To purchase or underwrite an issue or series of~~
8 ~~issues of notes.~~

9 ~~(ii) To credit; to enter into any purchase, loan or~~
10 ~~credit agreement; to draw money pursuant to the agreement~~
11 ~~on the terms and conditions set forth in the agreement;~~
12 ~~and to issue notes as evidence of borrowings made under~~
13 ~~the agreement.~~

14 ~~(iii) To appoint an issuing and paying agent with~~
15 ~~respect to notes.~~

16 ~~(iv) To do all acts necessary or appropriate to~~
17 ~~provide for the payment, when due, of the interest on and~~
18 ~~the principal of the notes.~~

19 ~~(5) An agreement under paragraph (4) may provide for the~~
20 ~~compensation of purchasers or underwriters of notes or~~
21 ~~replacement notes by discounting the purchase price of the~~
22 ~~notes or by payment of a fixed fee or commission at the time~~
23 ~~of their issuance. All other costs and expenses, including~~
24 ~~fees for agreements related to the notes, issuing and paying~~
25 ~~agent costs and costs and expenses of issuance, may be paid~~
26 ~~from the proceeds of the notes.~~

27 ~~(6) If the authorization and direction of the issuing~~
28 ~~officials provide for the issuance of replacement notes, the~~
29 ~~State Treasurer, at or prior to the time of delivery of these~~
30 ~~notes or replacement notes, shall, subject to the~~

1 ~~authorization and direction of the issuing officials, do all~~
2 ~~of the following:~~

3 ~~(i) Determine the:~~

4 ~~(A) principal amounts;~~

5 ~~(B) dates of issue;~~

6 ~~(C) interest rate or procedure for establishing~~
7 ~~interest rates;~~

8 ~~(D) rates of discount;~~

9 ~~(E) denomination; and~~

10 ~~(F) other terms and conditions relating to~~
11 ~~issuance.~~

12 ~~(ii) Perform all acts and things necessary to pay or~~
13 ~~cause to be paid, when due, all principal of and interest~~
14 ~~on the notes being refunded by replacement notes and to~~
15 ~~assure that the payment may draw upon any money available~~
16 ~~for that purpose pursuant to a purchase, loan or credit~~
17 ~~agreement established with respect to the notes.~~

18 (2) TEMPORARY BORROWINGS MADE UNDER THIS SUBSECTION <—
19 SHALL BE MADE IN ACCORDANCE WITH THE PROVISIONS OF SECTION
20 306(B), (C) AND (D) OF THE CAPITAL FACILITIES DEBT ENABLING
21 ACT.

22 ~~(7)~~ (3) Outstanding notes evidencing the borrowings may <—
23 be funded and retired by the issuance and sale of the bonds
24 of the Commonwealth as authorized in this paragraph. The
25 refunding bonds shall be issued and sold not later than a
26 date one year after the date of issuance of the first notes
27 evidencing the borrowing to the extent that payment of the
28 notes has not otherwise been made or provided for by sources
29 other than proceeds of replacement notes.

30 ~~(8)~~ (4) The proceeds of all temporary borrowing shall be <—

1 paid to the State Treasurer to be held and disposed of in
2 accordance with this chapter.

3 (d) Debt retirement.--

4 (1) All bonds issued under the authority of this chapter
5 shall be redeemed at maturity, together with all interest
6 due. Principal and interest payments shall be paid from the
7 sinking fund. For the specific purpose of redeeming the bonds
8 at maturity and paying all interest on the bonds in
9 accordance with the information received from the Governor,
10 the General Assembly shall appropriate money for the payment
11 of interest on the bonds and notes and the principal of the
12 bonds and notes at maturity. All money paid into the sinking
13 fund and all of the money not necessary to pay accruing
14 interest shall be invested by the State Treasurer in
15 securities as are provided by law for the investment of the
16 sinking funds of the Commonwealth.

17 (2) The State Treasurer shall determine and report to
18 the Secretary of the Budget by November 1 of each year the
19 amount of money necessary for the payment of any interest on
20 outstanding obligations and the principal of the obligations
21 for the following fiscal year and the times and amounts of
22 the payments. The Governor shall include in every budget
23 submitted to the General Assembly full information relating
24 to the issuance of bonds and notes under this chapter and the
25 status of the fund and the sinking fund for the payment of
26 interest on the bonds and notes and the principal of the
27 bonds and notes at maturity.

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

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

4 Section ~~2~~ 3.1. Section 1504 of Title 64 is amended by adding ~~←~~
5 ~~a definition~~ DEFINITIONS to read: ~~←~~

6 § 1504. Definitions.

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

10 * * *

11 "COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION." A COMMUNITY ~~←~~
12 DEVELOPMENT FINANCIAL INSTITUTION CERTIFIED IN ACCORDANCE WITH
13 THE COMMUNITY DEVELOPMENT BANKING AND FINANCIAL INSTITUTIONS ACT
14 OF 1994 (PUBLIC LAW 103-325, 108 STAT. 2163).

15 * * *

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 * * *

20 "WASTEWATER SYSTEM." A SYSTEM FOR THE COLLECTION, TREATMENT ~~←~~
21 OR DISPOSAL OF WASTEWATER, INCLUDING INDUSTRIAL WASTE. THE TERM
22 DOES NOT INCLUDE A SYSTEM USED SOLELY FOR RESIDENTIAL PURPOSES. ~~←~~

23 "WATER PROJECT." AN ACTIVITY TO ACQUIRE LAND, EASEMENTS OR
24 RIGHTS-OF-WAY AND TO CONSTRUCT, IMPROVE, EXPAND, EXTEND, REPAIR
25 OR REHABILITATE A WATER SYSTEM OR WASTEWATER SYSTEM AND WHICH
26 CONTRIBUTES TO ECONOMIC DEVELOPMENT.

27 "WATER SYSTEM." A SYSTEM FOR THE SUPPLY, TREATMENT, STORAGE
28 OR DISTRIBUTION OF WATER. THE TERM DOES NOT INCLUDE A SYSTEM
29 USED SOLELY FOR RESIDENTIAL PURPOSES.

30 ~~Section 3. Section 1543(c) of Title 64, added April 1, 2004~~ ~~←~~

1 ~~(P.L.163, No.22), is amended to read:~~

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

4 § 1543. Indebtedness.

5 * * *

6 (c) Fiscal year limitations.--

7 (1) Except as provided in subsection (d) and paragraphs
8 (2), (3) and (4), the aggregate amount of indebtedness
9 incurred by the authority, including through the issuance of
10 bonds, may not exceed \$250,000,000 reduced by the aggregate
11 amount of Commonwealth indebtedness incurred [as a result of
12 the act of February 12, 2004 (P.L.72, No.10), known as the
13 Water and Wastewater Treatment Project Bond Act] under 12
14 Pa.C.S. Ch. 39 (relating to water supply and wastewater
15 infrastructure capitalization).

16 (2) Except as provided in subsection (d) and paragraphs
17 (3) and (4) and upon adoption of a resolution under
18 subsection (f)(1), the aggregate amount of indebtedness
19 incurred by the authority, including through the issuance of
20 bonds, may not exceed \$500,000,000 reduced by the aggregate
21 amount of Commonwealth indebtedness incurred [as a result of
22 the Water and Wastewater Treatment Project Bond Act] under 12
23 Pa.C.S. Ch. 39.

24 (3) Except as provided in subsection (d) and paragraph
25 (4) and upon adoption of a resolution under subsection
26 (f)(2), the aggregate amount of indebtedness incurred by the
27 authority, including through the issuance of bonds, may not
28 exceed \$750,000,000 reduced by the aggregate amount of
29 Commonwealth indebtedness incurred [as a result of the Water
30 and Wastewater Treatment Project Bond Act] under 12 Pa.C.S.

1 Ch. 39.

2 (4) Except as provided in subsection (d) and upon
3 adoption of a resolution under subsection (f)(3), the
4 aggregate amount of indebtedness incurred by the authority,
5 including through the issuance of bonds, may not exceed
6 \$1,000,000,000 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 * * *

11 § 1552. FIRST INDUSTRIES PROGRAM. ←

12 * * *

13 (E) LOAN GUARANTEES.--

14 (1) AN APPLICANT MAY REQUEST A GUARANTEE FOR A LOAN TO
15 BE MADE BY A COMMERCIAL LENDING INSTITUTION OR COMMUNITY
16 DEVELOPMENT FINANCIAL INSTITUTION TO ASSIST WITH THE
17 FINANCING OF A PROJECT RELATED TO TOURISM OR AGRICULTURE. THE
18 APPLICANT MAY BE THE COMMERCIAL LENDING INSTITUTION OR
19 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION APPLYING ON
20 BEHALF OF A BORROWER. THE APPLICATION MUST BE ON THE FORM
21 REQUIRED BY THE BOARD AND MUST INCLUDE OR DEMONSTRATE ALL OF
22 THE FOLLOWING:

23 (I) THE APPLICANT'S NAME AND ADDRESS. IF THE
24 APPLICANT IS A COMMERCIAL LENDING INSTITUTION OR
25 COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, THE
26 BORROWER'S NAME AND ADDRESS.

27 (II) A DESCRIPTION OF THE PROJECT.

28 (III) A STATEMENT DESCRIBING THE ANTICIPATED
29 ECONOMIC IMPACT TO THE COMMONWEALTH AND THE HOST
30 MUNICIPALITY AS A RESULT OF THE PROJECT.

1 (IV) A DESCRIPTION OF THE PROPOSED PROJECT
2 FINANCING, INCLUDING TERMS, CONDITIONS AND THE COLLATERAL
3 OR SECURITY REQUIRED FOR THE LOAN FOR WHICH THE GUARANTEE
4 IS BEING REQUESTED.

5 (V) A COPY OF THE APPLICANT'S LAST TWO YEARS OF
6 FINANCIAL STATEMENTS PREPARED OR REPORTED ON BY AN
7 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. IF THE APPLICANT
8 IS A COMMERCIAL LENDING INSTITUTION OR A COMMUNITY
9 DEVELOPMENT FINANCIAL INSTITUTION, A COPY OF THE
10 BORROWER'S LAST TWO YEARS OF FINANCIAL STATEMENTS
11 PREPARED OR REPORTED ON BY AN INDEPENDENT CERTIFIED
12 PUBLIC ACCOUNTANT.

13 (VI) THE AMOUNT OF THE LOAN GUARANTEE THAT IS BEING
14 REQUESTED.

15 (VII) THE TOTAL PROJECT COST AND THE IDENTIFICATION
16 OF ALL SOURCES OF CAPITAL FOR THE PROJECT.

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

18 (2) THE BOARD SHALL REVIEW THE APPLICATION TO DETERMINE
19 ALL OF THE FOLLOWING:

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

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

25 (III) THAT THE APPLICANT COMPLIED WITH ALL OTHER
26 CRITERIA ESTABLISHED BY THE BOARD.

27 (3) UPON BEING SATISFIED THAT ALL REQUIREMENTS HAVE BEEN
28 MET, THE BOARD MAY APPROVE THE GUARANTEE, AND, IF APPROVED,
29 THE AUTHORITY SHALL EXECUTE A GUARANTEE AGREEMENT IN FAVOR OF
30 THE COMMERCIAL LENDING INSTITUTION OR COMMUNITY DEVELOPMENT

1 FINANCIAL INSTITUTION STATING THE TERMS AND AMOUNTS OF THE
2 GUARANTEE. THE GUARANTEE MAY NOT EXCEED 50% OF THE
3 OUTSTANDING PRINCIPAL AMOUNT OF THE LOAN OR \$2,500,000 AT ANY
4 POINT IN TIME, WHICHEVER IS LESS. IN ADDITION TO ANY OTHER
5 TERMS AND CONDITIONS REQUIRED BY THE BOARD, THE GUARANTEE
6 AGREEMENT SHALL PROVIDE FOR ALL OF THE FOLLOWING:

7 (I) THE PROCEDURE FOR THE SUBMISSION BY THE
8 COMMERCIAL LENDING INSTITUTION OR COMMUNITY DEVELOPMENT
9 FINANCIAL INSTITUTION OF A CLAIM FOR PAYMENT. THIS
10 PROCEDURE SHALL REQUIRE THAT THE COMMERCIAL LENDING
11 INSTITUTION OR COMMUNITY DEVELOPMENT FINANCIAL
12 INSTITUTION DEMONSTRATE THAT IT HAS EXHAUSTED ALL
13 AVAILABLE REMEDIES AGAINST THE BORROWER, OTHER GUARANTORS
14 AND COLLATERAL BEFORE SEEKING PAYMENT UNDER THE
15 AGREEMENT.

16 (II) A REQUIREMENT THAT A PERCENTAGE OF ANY MONEYS
17 RECOVERED SUBSEQUENT TO THE PAYMENT OF A CLAIM BY THE
18 AUTHORITY BE REMITTED TO THE AUTHORITY.

19 (III) PERIODIC REPORTING REQUIREMENTS BY THE
20 COMMERCIAL LENDING INSTITUTION OR COMMUNITY DEVELOPMENT
21 FINANCIAL INSTITUTION REGARDING ITSELF AND REGARDING THE
22 LOANS WHICH HAVE BEEN AWARDED GUARANTEES UNDER THIS
23 SECTION.

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

28 * * *

29 Section 4 5. Title 64 is amended by adding a section to
30 read:

<—

1 § 1558. Water Supply and Wastewater Infrastructure Program.

2 (a) Establishment.--There is established a program to be
3 known as the Water Supply and Wastewater Infrastructure Program.

4 The program shall provide financial assistance in the form of
5 single-year or multiyear grants to municipalities and municipal
6 authorities and in the form of loans to municipalities,

7 municipal authorities, industrial development corporations and
8 investor-owned water or wastewater enterprises for WATER <—

9 projects which, when completed, construct, expand or improve
10 water and wastewater infrastructure WHICH IS AND WHICH ARE <—

11 RELATED TO ECONOMIC DEVELOPMENT.

12 (b) Application.--A municipality, a municipal authority, an
13 industrial development corporation or an investor-owned water or
14 wastewater enterprise may submit an application to the authority

15 requesting financial assistance for a WATER project. The <—
16 application must be on the form required by the board and must

17 include or demonstrate all of the following:

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

19 (2) A statement of the type and amount of financial
20 assistance sought. If the applicant is requesting financial
21 assistance in the form of a grant, the request may not exceed
22 75% of the cost of the WATER project. <—

23 (3) A statement of the WATER project, including a <—
24 detailed statement of the cost of the WATER project. <—

25 (4) A financial commitment from a responsible source for
26 any cost of the WATER project in excess of the amount <—

27 requested. If the applicant is requesting financial
28 assistance in the form of a grant from the department, the
29 financial commitment may not be in the form of a grant from a
30 Commonwealth agency.

1 (5) A firm commitment from the project user to use the
2 WATER project upon completion. <—

3 (6) Proof that the applicant has secured planning and
4 permit approvals for the WATER project from the Department of <—
5 Environmental Protection.

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

8 (i) The project will repair or rehabilitate existing
9 sewer and water systems that are unsafe or unreliable and
10 that threaten public health and water quality.

11 (ii) The project will eliminate existing combined
12 sewer overflow and sanitary sewer overflow problems while
13 ensuring that all combined and sanitary sewage discharges
14 comply with Federal and State requirements pursuant to
15 the Federal Water Pollution Control Act (62 Stat. 1155,
16 33 U.S.C. § 1251 et seq.) and the act of June 22, 1937
17 (P.L.1987, No.394), known as The Clean Streams Law.

18 (iii) The project will provide support for
19 alternative approaches to address combined sewer overflow
20 and sanitary sewer overflow problems, including
21 distributed storm water and decentralized wastewater
22 treatment.

23 (iv) The project will repair, rehabilitate or
24 otherwise use in place surplus capacity for economic
25 development in existing communities that are currently
26 served by existing sewer and water systems.

27 (v) The project will construct sewer or water
28 infrastructures where there are compelling public health
29 or environmental issues or an economic development
30 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)).~~

1 ~~(ii) If there is a financial commitment for at least~~
2 ~~25% of the project.~~

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

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

7 ~~(v) If the~~

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

10 ~~(II) IF THE WATER PROJECT IS RELATED TO ECONOMIC~~ <—
11 ~~DEVELOPMENT.~~

12 ~~(III) IF THERE IS A FINANCIAL COMMITMENT FOR AT~~
13 ~~LEAST 25% OF THE WATER PROJECT.~~ <—

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

16 ~~(V) IF THE APPLICANT IS FIRMLY COMMITTED TO USING~~
17 ~~THE WATER PROJECT UPON COMPLETION.~~ <—

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

25 ~~(vi) (VII) THAT THE APPLICANT DID NOT RECEIVE A~~ <—
26 ~~GRANT OR LOAN UNDER SECTION 1551 (RELATING TO BUSINESS IN~~
27 ~~OUR SITES PROGRAM) FOR THE PROJECT.~~

28 ~~(VII) (VIII) (VII) If the applicant complied with~~ <—
29 ~~all other criteria established by the board.~~

30 ~~(2) Upon being satisfied that all program requirements~~

1 have been met, the authority may approve the application in <—
2 accordance CONSISTENT with all of the following: <—

3 (i) The grant may not exceed \$5,000,000 per WATER <—
4 project.

5 (ii) Grants under this program shall not exceed
6 \$10,000,000 in the aggregate per municipality or
7 municipal authority.

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

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

22 (IV) THE BOARD SHALL GIVE PRIORITY CONSIDERATION TO <—
23 WATER PROJECTS WHICH ARE INTEGRAL FOR DEVELOPMENT OR
24 REDEVELOPMENT OF SITES WHICH ARE PLANNED FOR DEVELOPMENT.

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

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

1 (4) Nothing in this subsection shall be construed to
2 prohibit the awarding of grants to municipalities in which
3 the water supply or wastewater services are provided in whole
4 or in part by an investor-owned water or wastewater
5 enterprise.

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

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

11 (I) IF THE WATER PROJECT IS RELATED TO ECONOMIC <—
12 DEVELOPMENT.

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

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

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

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

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

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

30 (2) Upon being satisfied that all program requirements

1 have been met, the board may approve the application in <—
2 accordance CONSISTENT with all of the following: <—

3 (i) The loan may not exceed \$5,000,000 per WATER <—
4 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. WATER <—
19 PROJECTS WHICH ARE INTEGRAL FOR THE DEVELOPMENT OR
20 REDEVELOPMENT OF SITES WHICH ARE PLANNED FOR
21 DEVELOPMENT.

22 (IV) THE BOARD MUST RECEIVE NOTICE FROM THE
23 SECRETARY OF THE BUDGET THAT THE WATER PROJECT SATISFIES <—
24 THE FEDERAL TAX STATUS REQUIREMENTS OF ANY BONDS USED TO
25 FUND THE LOAN.

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

28 (e) Report to General Assembly.--

29 (1) The authority shall submit an annual report to the
30 General Assembly no later than September 1 following the

1 first fiscal year, or any portion thereof, in which the
2 program is in effect, and no later than September 1 for all
3 succeeding fiscal years in which the program is in effect.
4 The report shall include a list of all of the recipients of
5 grants and loans awarded by the authority in the previous
6 fiscal year, the amount of the grants or loans awarded, a
7 description of the WATER project and the public purposes that <—
8 it advances and the documentation submitted by the applicant
9 demonstrating that the WATER project met at least one of the <—
10 criteria of subsection (b)(7).

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

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

19 (1) ACQUIRE LAND, EASEMENTS OR RIGHTS OF WAY; OR
20 (2) CONSTRUCT, IMPROVE, EXPAND, EXTEND, REPAIR OR
21 REHABILITATE A WATER SYSTEM OR WASTEWATER SYSTEM ARISING FROM
22 AN ECONOMIC DEVELOPMENT PROJECT. "ECONOMIC DEVELOPMENT" MEANS <—
23 A PROJECT WHICH INVOLVES THE INVESTMENT OF CAPITAL IN
24 PENNSYLVANIA ENTERPRISES AND COMMUNITIES OR WHICH RESULTS IN
25 THE CREATION OF NEW OR THE PRESERVATION OF EXISTING JOBS IN
26 THIS COMMONWEALTH.

27 SECTION 6. THE FOLLOWING SHALL APPLY:

28 (1) IN ORDER TO FACILITATE THE REPAIR OR REHABILITATION
29 OF EXISTING WATER AND WASTEWATER SYSTEMS, THE COMMONWEALTH
30 SHALL, BY DECEMBER 31, 2005, INCUR NOT LESS THAN \$50,000,000

1 NOR MORE THAN \$100,000,000 OF ADDITIONAL DEBT FROM THE DEBT
2 AUTHORIZED UNDER THE ACT OF MARCH 16, 1992 (P.L.10, NO.5),
3 KNOWN AS THE SMALL WATER SYSTEMS ASSISTANCE ACT, AND APPROVED
4 BY THE ELECTORATE AT THE APRIL 28, 1992, GENERAL ELECTION.
5 THE ADDITIONAL DEBT SHALL BE INCURRED BY THE ISSUANCE OF
6 GENERAL OBLIGATION BONDS ISSUED IN ACCORDANCE WITH SECTION 17
7 OF THE ACT OF MARCH 1, 1988 (P.L.82, NO.16), KNOWN AS THE
8 PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY ACT.

9 (2) PROCEEDS FROM THE SALE OF BONDS REQUIRED BY
10 PARAGRAPH (1) SHALL BE TRANSFERRED TO THE PENNSYLVANIA
11 INFRASTRUCTURE INVESTMENT AUTHORITY.

12 (3) THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY
13 SHALL USE THE PROCEEDS FROM THE SALE OF BONDS REQUIRED BY
14 PARAGRAPH (1) TO FINANCE PROJECTS OF EXISTING WATER AND
15 WASTEWATER SYSTEMS WHICH, WHEN COMPLETE, DO ANY OF THE
16 FOLLOWING:

17 (I) REPAIR, REHABILITATION OR MODERNIZE EXISTING
18 WATER OR WASTEWATER SYSTEMS TO MEET ENVIRONMENTAL OR
19 PUBLIC HEALTH STANDARDS.

20 (II) ELIMINATE EXISTING COMBINED OR SANITARY
21 WASTEWATER OVERFLOW PROBLEMS.

22 (III) CONSTRUCT WATER OR WASTEWATER INFRASTRUCTURE
23 TO IMPROVE PUBLIC HEALTH OR ELIMINATE ENVIRONMENTAL
24 CONCERNS.

25 (IV) CONSTRUCT WASTEWATER INFRASTRUCTURE UTILIZING
26 NUTRIENT REDUCTION TECHNOLOGY.

27 Section ~~5-6~~ 7. This act shall take effect immediately.

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