

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2549 Session of  
2008

INTRODUCED BY SIPTROTH, McCALL, CARROLL, ARGALL, BRENNAN,  
CALTAGIRONE, DALEY, DePASQUALE, EACHUS, FREEMAN, GEORGE,  
GOODMAN, GRUCELA, HORNAMAN, JOSEPHS, KULA, LONGIETTI, MAJOR,  
McILVAINE SMITH, MELIO, MUNDY, PALLONE, SAMUELSON, SANTONI,  
SEIP, SHIMKUS, K. SMITH, M. SMITH, SOLOBAY, STABACK, SURRA,  
SWANGER, WANSACZ, YUDICHAK AND SCAVELLO, MAY 20, 2008

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MAY 20, 2008

AN ACT

1 Amending the act of March 1, 1988 (P.L.82, No.16), entitled "An  
2 act providing for the establishment, implementation and  
3 administration of the Pennsylvania Infrastructure Investment  
4 Authority; imposing powers and duties on a board of trustees;  
5 transferring the rights, powers, duties and obligations of  
6 the Water Facilities Loan Board to the Pennsylvania  
7 Infrastructure Investment Authority; providing for the  
8 issuance of notes and bonds; providing for financial  
9 assistance and for a comprehensive water facilities plan;  
10 authorizing a referendum to incur indebtedness; making an  
11 appropriation; and making repeals," further providing for  
12 legislative intent, for definitions and for financial  
13 assistance.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Section 2 of the act of March 1, 1988 (P.L.82,  
17 No.16), known as the Pennsylvania Infrastructure Investment  
18 Authority Act, amended December 16, 1992 (P.L.1137, No.149), is  
19 amended to read:

20 Section 2. Legislative intent.

21 The General Assembly finds and declares that:

1 (1) The health of millions of citizens of this  
2 Commonwealth is at risk due to substandard and deteriorated  
3 water supply and sewage disposal systems.

4 (2) Many water and sewage systems in this Commonwealth  
5 are aging, outmoded, inadequate, deteriorating and operating  
6 above capacity, and many areas have to limit their growth  
7 solely due to lack of proper water supply and sewage  
8 disposal.

9 (3) The economic revitalization of this Commonwealth is  
10 being stifled by a lack of clean water and adequate sewage  
11 facilities.

12 (4) Many Pennsylvania communities have antiquated or  
13 inadequate storm water systems thereby resulting in storm  
14 water flows which threaten the public health and safety due  
15 to flooding, overloaded sewer lines, soil erosion, sinkhole  
16 development and expansion and reduction in surface water and  
17 groundwater quality.

18 (4.1) Many communities in this Commonwealth are  
19 threatened by unsafe high hazard dams so located as to  
20 endanger the health and safety of populated areas.

21 (5) Financing of water and sewage projects and storm  
22 water projects at affordable cost is not currently available  
23 in many areas of this Commonwealth.

24 (6) The lack of affordable financing to implement storm  
25 water management plan recommendations has resulted in  
26 compliance by only 17 counties with the requirements of the  
27 act of October 4, 1978 (P.L.864, No.167), known as the Storm  
28 Water Management Act.

29 (6.1) County and local governmental units struggle to  
30 find the necessary funds to repair unsafe high hazard dams in

1     need of urgent repair.

2           (7) In order to assist in financing projects to protect  
3     the health and safety of the citizens of this Commonwealth  
4     and to promote the economic development of Pennsylvania, the  
5     General Assembly has determined that it is necessary to  
6     establish the Pennsylvania Infrastructure Investment  
7     Authority and to provide funding of the authority programs.

8     Section 2. Section 3 of the act, amended December 16, 1992  
9     (P.L.1137, No.149) and July 14, 2005 (P.L.299, No.51), is  
10    amended to read:

11   Section 3. Definitions.

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

15       "Authority." The Pennsylvania Infrastructure Investment  
16    Authority.

17       "Board." The board of directors of the authority.

18       "Bonds." Bonds, notes or other evidences of indebtedness  
19    issued by the authority pursuant to this act.

20       "Department." The Department of Environmental [Resources]  
21    Protection of the Commonwealth.

22       "Eligible cost." The cost of all labor, materials, machinery  
23    and equipment, lands, property, rights and easements, plans and  
24    specifications, surveys or estimates of costs and revenues, pre-  
25    feasibility studies, engineering and legal services, and all  
26    other expenses necessary or incident to the acquisition,  
27    construction, improvement, expansion, extension, repair or  
28    rehabilitation of all or part of a project.

29       "Governmental unit." Any agency of the Commonwealth or any  
30    county, municipality or school district, or any agency,

1 instrumentality, authority or corporation thereof, or any public  
2 body having local or regional jurisdiction or power.

3 "High hazard dam." A dam so located that it will endanger  
4 populated areas downstream if it fails.

5 "Project." The eligible costs associated with the  
6 acquisition, construction, improvement, expansion, extension,  
7 repair, rehabilitation or security measures of all or part of  
8 any facility or system, whether publicly or, in the case of  
9 paragraph (1) or (2), privately owned:

10 (1) for the collection, treatment or disposal of  
11 wastewater, including industrial waste;

12 (2) for the supply, treatment, storage or distribution  
13 of drinking water;

14 (3) for the control of storm water, which may include,  
15 but need not be limited to, the transport, storage and the  
16 infiltration of storm water; [or]

17 (4) for the best management practices to address point  
18 or nonpoint source pollution associated with storm water  
19 runoff or any other innovative techniques identified in the  
20 county-prepared watershed plans pursuant to the act of  
21 October 4, 1978 (P.L.864, No.167), known as the Storm Water  
22 Management Act[.]; or

23 (5) for the repair of high hazard dams designated by the  
24 Department of Environmental Protection as unsafe and in  
25 urgent need of repair which may include costs associated with  
26 breaching a dam.

27 "Secretary." The Secretary of Environmental [Resources]  
28 Protection of the Commonwealth.

29 "Security measures." Infrastructure improvements to publicly  
30 or privately owned water or wastewater systems designed in whole

1 or in part for the protection of the collection, treatment and  
2 distribution of potable water and treatment of wastewater from  
3 threats and vulnerabilities to ensure the public health of the  
4 systems' customers in accordance with the Environmental  
5 Protection Agency's Drinking Water State Revolving Fund Program  
6 and the Clean Water State Revolving Fund Program established  
7 under section 1452 of the Safe Drinking Water Act (Public Law  
8 93-523, 42 U.S.C. § 300j-12) and Title VI of the Federal Water  
9 Pollution Control Act (62 Stat. 1155, 33 U.S.C. §§ 1381-1387),  
10 respectively, and any other program for which there are funds or  
11 accounts administered by the authority.

12 "Storm water." Drainage runoff from the surface of the land  
13 resulting from precipitation or snow or ice melt.

14 "Unsafe dam." A dam designated by the Department of  
15 Environmental Protection with deficiencies of such a nature that  
16 if not corrected, the deficiencies could cause a failure of the  
17 dam with subsequent loss of lives or substantial property  
18 damage.

19 "Water Facilities Loan Board." The board established under  
20 32 Pa.C.S. § 7504 (relating to Water Facilities Loan Board).

21 Section 3. Section 10(a), (b), (e) and (j) of the act,  
22 amended December 16, 1992 (P.L.1137, No.149), are amended and  
23 the section is amended by adding a subsection to read:

24 Section 10. Financial assistance.

25 (a) Criteria for obtaining assistance.--In reviewing  
26 applications for financial assistance, the authority shall  
27 consider:

28 (1) Whether the project will improve the health, safety,  
29 welfare or economic well-being of the people of this  
30 Commonwealth.

1 (2) Whether the proposed project will lead to an  
2 effective or complete solution to the problems experienced  
3 with the water management and control supply, sewage  
4 treatment or storm water system or unsafe high hazard dam to  
5 be aided, including compliance with State and Federal laws,  
6 regulations or standards.

7 (3) The cost-effectiveness of the proposed project in  
8 comparison with other alternatives, including other  
9 institutional, financial and physical alternatives.

10 (4) The consistency of the proposed project with other  
11 State and regional resource management and economic  
12 development plans.

13 (5) Whether the applicant has demonstrated its ability  
14 to operate and maintain the project in a proper manner.

15 (6) Whether the project encourages consolidation of  
16 water or sewer systems, where such consolidation would enable  
17 the customers of the systems to be more effectively and  
18 efficiently served.

19 (7) The availability of other sources of funds at  
20 reasonable rates to finance all or a portion of the project  
21 and the need for authority assistance to finance the project  
22 or to attract the other sources of funding[.] unless the  
23 application is for a high hazard dam project, in which case  
24 this factor shall not be considered.

25 (b) Financing priorities.--In assigning priorities for  
26 projects, the board shall consult with the Department of  
27 [Commerce] Community and Economic Development and the  
28 department. In addition to any requirements of Federal law  
29 imposed on the use of Federal funds, the board shall determine  
30 priorities based on factors which include, but are not limited

1 to:

2 (1) Benefits to public health.

3 (2) The contribution to and impact of the project on  
4 economic development as well as social and environmental  
5 values.

6 (3) Benefits to public safety or welfare.

7 (4) Improvement in the ability of an applicant to come  
8 into compliance with State and Federal statutes, regulations  
9 and standards.

10 (5) Improvement in the adequacy or efficiency of the  
11 water management and control supply, sewage treatment or  
12 storm water system.

13 (6) The cost-effectiveness of the project.

14 (7) Whether the governmental unit to be served by a  
15 sewage treatment system is subject to construction or  
16 connection limitations issued by the department and the date  
17 that any such limitation was issued.

18 (8) Whether the project encourages consolidation of  
19 water or sewer systems, where such consolidation would enable  
20 the customers of the systems to be more effectively and  
21 efficiently served.

22 (9) Whether a storm water project is sponsored by more  
23 than one municipality and is located at strategic locations  
24 determined by the basin-wide studies undertaken under the act  
25 of October 4, 1978 (P.L.864, No.167), known as the Storm  
26 Water Management Act, or other joint municipal or county  
27 efforts.

28 (10) Whether a project will resolve known drainage or  
29 storm water-related problems.

30 \* \* \*

1 (b.2) High hazard dam projects.--

2 (1) In the case of a high hazard dam project, only a  
3 county or local governmental unit may qualify for financial  
4 assistance under this act.

5 (2) The department shall be responsible for the  
6 designation of a dam as an unsafe high hazard dam.

7 (3) Only unsafe high hazard dams as designated by the  
8 department under paragraph (2) shall be eligible to receive  
9 grant funds.

10 (4) All funding awards for unsafe high hazard dam  
11 projects shall be in the form of a grant award and such grant  
12 award shall not:

13 (i) Exceed 30% of the eligible costs of the project.

14 (ii) Be subject to the analysis of subsection (e).

15 (iii) Be subject to the analysis of subsection

16 (a)(7).

17 (5) The funding awards for unsafe high hazard dam  
18 projects shall be limited to those funds provided.

19 \* \* \*

20 (e) Grants.--Grants shall be made only when the board, in  
21 its sole discretion, determines that the financial condition of  
22 the recipient is such that repayment of a loan is unlikely and  
23 that the recipient will not be able to proceed with the project  
24 without a grant[.] unless the application is for an unsafe high  
25 hazard dam project, in which case this analysis shall not be  
26 required. In considering grant applications, the authority may  
27 recommend, either before or after the determination of the  
28 board, that the recipient pursue other State grant programs,  
29 including, but not limited to, the Site Development program, the  
30 Federal Small Communities Block Grant program and the Federal



1 Urban Development Action Grant program. Should the board  
2 determine that a grant is necessary from the authority, the  
3 board shall attempt to mix the grant funds with loan funds, if  
4 financially possible unless the award is for an unsafe high  
5 hazard dam project.

6 \* \* \*

7 (j) Continuing education of operators.--No agreement with  
8 individuals or entities shall be valid in the absence of an  
9 agreement by the individuals or entities seeking assistance  
10 under this act to assure that the system operators are  
11 participating or will participate in continuing education  
12 programs developed by the Department of Environmental  
13 [Resources] Protection. If the board determines that the system  
14 operator of a system receiving assistance is not participating  
15 in continuing education programs, the board shall take all steps  
16 necessary to cease all financial assistance and recover all  
17 prior payments, including, but not limited to, the immediate  
18 repayment of any outstanding loans and interest and any grants.  
19 The provisions of this subsection shall not apply to cases where  
20 financial assistance is provided for storm water projects.

21 \* \* \*

22 Section 4. This act shall take effect immediately.