

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 2

Session of 2008

INTRODUCED BY EARLL, PILEGGI, M. WHITE, SCARNATI, PUNT, MADIGAN, ERICKSON, TOMLINSON, CORMAN, McILHINNEY, ORIE, RAFFERTY, GREENLEAF, D. WHITE, REGOLA, WONDERLING, FOLMER, MUSTO, WAUGH, KITCHEN, VANCE, GORDNER, BROWNE, PIPPY, ROBBINS, BAKER AND BRUBAKER, MAY 5, 2008

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, MAY 13, 2008

AN ACT

1 Providing for the allocation of money in the Pennsylvania Gaming
2 Economic Development and Tourism Fund and for funding of
3 water or sewer projects, storm water projects, flood control
4 projects and high hazard dam projects.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the H2O PA Act.

11 Section 102. 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 Commonwealth Financing Authority
16 established under 64 Pa.C.S. Ch 15 (relating to Commonwealth
17 Financing Authority).

1 "Board." The Board of the Commonwealth Financing Authority
2 established under 64 Pa.C.S. § 1512 (relating to board).

3 "Department." The Department of Environmental Protection of
4 the Commonwealth.

5 "Eligible applicant." One or more municipalities or
6 municipal authorities.

7 "HIGH HAZARD DAM." A DAM SO LOCATED AS TO ENDANGER POPULATED <—
8 AREAS DOWNSTREAM BY ITS FAILURE.

9 "Municipal authority." A public authority created under 53
10 Pa.C.S. Ch. 56 (relating to municipal authorities) or under the
11 former act of May 2, 1945 (P.L.382, No.164) known as the
12 Municipality Authorities Act of 1945.

13 "PENNVEST." The Pennsylvania Infrastructure Investment
14 Authority established under the act of March 1, 1988 (P.L.82,
15 No.16), known as the Pennsylvania Infrastructure Investment
16 Authority Act.

17 "Project." The acquisition, construction, improvement,
18 including the installation of security measures, expansion,
19 repair or rehabilitation of all or part of a water supply
20 system, sewage disposal system, storm water system, flood
21 control system or high hazard dam. The term shall include the
22 consolidation of two or more water supply systems, sewage
23 disposal systems, storm water systems or flood control systems.

24 "Regional flood control project." A project to construct,
25 rehabilitate or upgrade a flood control system that is owned ~~or~~ <—
26 ~~operated~~ by two or more municipalities or authorities.

27 "Regional water supply, sewage disposal or storm water
28 project." A project to construct, rehabilitate or upgrade a
29 water supply system, sewage disposal system or storm water
30 system that is owned ~~or operated~~ by two or more municipalities <—

1 or municipal authorities.

2 "Water or sewer project." The acquisition, construction,
3 improvement, including the installation of security measures,
4 expansion, repair, ~~rehabilitation of~~ OR REHABILITATION OF ALL OR ←
5 PART OF a water supply system, sewage disposal system or storm
6 water system.

7 CHAPTER 3

8 ALLOCATION OF FUNDS

9 Section 301. Fund distribution.

10 Notwithstanding the provisions of 4 Pa.C.S. § 1407(b)
11 (relating to Pennsylvania Gaming Economic Development and
12 Tourism Fund), all money in the Pennsylvania Gaming Economic
13 Development and Tourism Fund not previously allocated to
14 projects under the act of July 25, 2007 (P.L.342, No.53), known
15 as Pennsylvania Gaming Economic Development and Tourism Fund
16 Capital Budget Itemization Act of 2007, shall be allocated to
17 the authority for distribution under this act for water or
18 sewer, storm water, flood control and high hazard dam projects.
19 For a ten-year period beginning with the initial deposits under
20 4 Pa.C.S. ~~§ 1407(d)~~ 1407(C), no loans or grants shall be ←
21 distributed for any project located in a city or county of the
22 first or second class.

23 CHAPTER 5

24 WATER ~~AND~~ OR SEWER PROJECTS, STORM WATER PROJECTS, ←
25 FLOOD CONTROL PROJECTS AND HIGH HAZARD DAM PROJECTS

26 Section 501. Commonwealth Financing Authority.

27 (a) General rule.--The authority shall incur indebtedness in
28 an amount of up to \$750,000,000 plus the payment of all
29 reasonable costs and expenses related to the issuance of
30 indebtedness in accordance with 64 Pa.C.S. Ch. 15 (relating to

1 Commonwealth Financing Authority) for up to 30 years. Net
2 proceeds from the sale of obligations incurred under this
3 section shall be allocated by the board for projects set forth
4 under section 502.

5 (b) Payments.--Beginning in fiscal year 2009-2010, money
6 allocated under section 301 shall be used by the authority for
7 payment of the debt service related to the issuance of
8 obligations under subsection (a).

9 (c) Grants and loans.--Proceeds from obligations issued
10 under section 501(a) and money remaining in the fund following
11 payment of debt service shall be used for single-year or
12 multiyear ~~grants and loans~~ LOANS AND GRANTS to eligible ←
13 applicants for projects under subsection (e) following review
14 under section 502. Grants and loans shall be awarded to eligible
15 applicants for projects of \$500,000 or more. A LOAN, GRANT OR A ←
16 COMBINATION THEREOF, UNDER THIS ACT SHALL NOT EXCEED A TOTAL OF
17 \$20,000,000 FOR ANY PROJECT.

18 (d) Local participation.--An eligible applicant shall
19 provide funds of not less than ~~50%~~ of the amount awarded by the ←
20 authority.

21 (e) Applications.--Applications for grants or loans under
22 this chapter shall be in a form determined by the board and
23 shall contain plans and other documentation as required by the
24 board.

25 (f) Guidelines.--The authority shall publish guidelines in
26 the Pennsylvania Bulletin relating to the following:

- 27 (1) Eligibility of applicant.
- 28 (2) Required documentation.
- 29 (3) Form of application.
- 30 (4) Costs of a project that are eligible for a grant or

1 loan.

2 (5) Requirements and standards of review for eligible
3 projects.

4 Section 502. Distribution of funds.

5 (a) General rule.--The board shall distribute funds
6 available under section 501(c) by awarding grants or loans to
7 eligible applicants for the following projects:

8 (1) Water or sewer projects owned by an eligible
9 applicant.

10 (2) Flood control projects owned by an eligible
11 applicant.

12 (3) High hazard dam ~~projects~~ REPAIR OR REHABILITATION <—
13 PROJECTS FOR DAMS owned by an eligible applicant.

14 (b) Review.--The authority shall consult with the
15 appropriate agency under section 503 and award grants and loans
16 in accordance with priorities under section 503 and guidelines
17 adopted under section ~~501(e)~~ 501(F). <—

18 Section 503. Review by agencies.

19 (a) Water or sewer projects.--

20 ~~(1) (i) First priority shall be given to projects that <—~~
21 ~~will consolidate two or more water supply systems, sewage~~
22 ~~disposal systems or storm water systems owned by eligible~~
23 ~~applicants.~~

24 ~~(ii) Second priority shall be given to regional~~
25 ~~water supply, sewage disposal or storm water projects.~~

26 (1) A MINIMUM OF 50% OF LOANS OR GRANTS FOR WATER OR <—
27 SEWER PROJECTS APPROVED BY THE AUTHORITY SHALL BE AWARDED TO
28 PROJECTS THAT WILL CONSOLIDATE TWO OR MORE SYSTEMS OR TO
29 REGIONAL SYSTEMS.

30 (2) PENNVEST shall review all applications for grants

1 and loans under section 502(a)(1). The review shall include
2 an analysis of the following:

3 (i) The number of municipalities that will be part
4 of the water or sewer project and the number of
5 municipalities that will benefit FROM the project. <—

6 (ii) Whether the construction, repair or
7 consolidation ~~or~~ OF a water or sewer project will enable <—
8 customers of the system to be more efficiently served.

9 (iii) The cost-effectiveness of the project when
10 compared to other water ~~and~~ OR sewer projects. <—

11 (iv) Improvement in the ability of the ELIGIBLE <—
12 applicant to come into compliance with Federal and State
13 statutes, regulations or other standards.

14 (v) The consistency of the proposed project with
15 other State and regional resource management and economic
16 development plans.

17 (vi) Whether the project serves existing populations
18 or whether the project is intended to serve new
19 development.

20 (vii) Whether the ELIGIBLE applicant has secured any <—
21 required planning and permit approvals for the project
22 from the department.

23 (viii) Whether the project is consistent with any
24 applicable county or local comprehensive plans.

25 (b) Flood control projects.--

26 ~~(1) (i) First priority shall be given to projects that <—
27 will consolidate two or more flood control systems owned
28 by eligible applicants.~~

29 ~~(ii) Second priority shall be given to regional
30 flood control projects.~~

1 (1) A MINIMUM OF 50% OF LOANS OR GRANTS FOR FLOOD <—
2 CONTROL PROJECTS APPROVED BY THE AUTHORITY SHALL BE AWARDED
3 TO PROJECTS THAT WILL CONSOLIDATE TWO OR MORE SYSTEMS OR TO
4 REGIONAL SYSTEMS.

5 (2) The department shall review all applications for
6 grants and loans under section 502(a)(2). The review shall
7 include an analysis of the following:

8 (i) The number of municipalities that will be part
9 of the flood control project and the number of
10 municipalities that will benefit from the project.

11 (ii) The history of flooding in the area to be
12 served by the FLOOD CONTROL project. <—

13 (iii) The cost-effectiveness of the FLOOD CONTROL <—
14 project.

15 (iv) Improvement in the ability of the ELIGIBLE <—
16 applicant to come into compliance with Federal and State
17 statutes, regulations or other standards.

18 (v) Whether the ELIGIBLE applicant has secured any <—
19 required planning and permit approvals for the project
20 from the department.

21 (vi) Whether the project is consistent with any
22 applicable county or local comprehensive plans.

23 (c) High hazard dams.--~~The Department of Environmental~~ <—
24 ~~Resources~~ DEPARTMENT shall review all applications for ~~grants~~ <—
25 ~~and loans~~ LOANS AND GRANTS under section 502(a)(3). ~~The review~~ <—
26 ~~shall include an analysis of the following:~~

27 ~~(1) The level of hazard posed by the dam.~~

28 ~~(2) Whether the proposal represents the most cost-~~
29 ~~effective way to address the hazard.~~

30 (1) THE REVIEW SHALL INCLUDE AN ANALYSIS OF THE <—

1 FOLLOWING:

2 (I) THE LEVEL OF HAZARD POSED BY THE DAM.

3 (II) WHETHER THE PROPOSED PROJECT REPRESENTS THE
4 MOST COST-EFFECTIVE WAY TO ADDRESS THE HAZARD.

5 (2) TO BE ELIGIBLE, THE OWNER OF THE HIGH HAZARD DAM
6 SHALL:

7 (I) OBTAIN ALL APPLICABLE PERMITS REQUIRED UNDER THE
8 ACT OF NOVEMBER 26, 1978 (P.L.1375, NO.325), KNOWN AS THE
9 DAM SAFETY AND ENCROACHMENTS ACT.

10 (II) DEVELOP AN EMERGENCY ACTION PLAN AS REQUIRED BY
11 SECTION 5(A)(4) OF THE DAM SAFETY AND ENCROACHMENTS ACT
12 AND DISTRIBUTE THE PLAN TO AFFECTED COUNTY AND MUNICIPAL
13 EMERGENCY MANAGEMENT OFFICIALS.

14 (III) COMPLY WITH ALL INSPECTION REQUIREMENTS AND
15 SUBMIT INSPECTION REPORTS TO THE DEPARTMENT AS REQUIRED
16 BY LAW.

17 Section 504. Project review.

18 The authority shall review the information received under
19 section 503, prepare an assessment of each project and determine
20 which projects will best utilize and promote the efficient
21 management of water resources and protect the health and safety
22 of the citizens of this Commonwealth.

23 CHAPTER 7

24 REPORTING

25 Section 701. Annual reports.

26 ~~The authority and the department shall each provide an annual~~ <—
27 ~~report to the Majority Leader and Minority Leader of the Senate~~
28 ~~and the Majority and Minority Leader of the House of~~
29 ~~Representatives by October 1, 2008, and October 1 of each year~~
30 ~~thereafter. The report shall be posted and maintained on the~~

1 ~~official Internet website of the authority and the department~~
2 ~~and shall include:~~

3 ~~(1) A list of all loans and grants approved and loans~~
4 ~~repaid during the previous fiscal year.~~

5 ~~(2) The name and address of each recipient, including~~
6 ~~the name of a contact person of the recipient.~~

7 ~~(3) The amount of the loan or grant and a detailed~~
8 ~~description of each approved project.~~

9 ~~(4) An analysis of how each program is improving the~~
10 ~~health and safety of the citizens of this Commonwealth.~~

11 (A) AUTHORITY REPORT.--THE AUTHORITY SHALL PROVIDE AN ANNUAL <—
12 REPORT, WHICH AT A MINIMUM SHALL INCLUDE:

13 (1) A LIST OF ALL LOANS AND GRANTS APPROVED AND LOANS
14 REPAID DURING THE PREVIOUS FISCAL YEAR.

15 (2) THE NAME AND ADDRESS OF EACH RECIPIENT, INCLUDING
16 THE NAME OF A CONTACT PERSON OF THE RECIPIENT.

17 (3) THE AMOUNT OF THE LOAN OR GRANT AND A DETAILED
18 DESCRIPTION OF THE PROJECT FOR WHICH THE LOAN OR GRANT WAS
19 AWARDED.

20 (B) DEPARTMENT REPORT.--THE DEPARTMENT, IN COLLABORATION
21 WITH PENNVEST, SHALL PROVIDE AN ANNUAL REPORT, WHICH AT A
22 MINIMUM SHALL INCLUDE:

23 (1) AN ANALYSIS OF HOW EACH PROGRAM AUTHORIZED UNDER
24 THIS ACT IS IMPROVING THE HEALTH AND SAFETY OF THE CITIZENS
25 OF THIS COMMONWEALTH.

26 (2) A SUMMARY AND ANALYSIS OF OTHER COMMONWEALTH
27 PROGRAMS DEDICATED TO WATER OR SEWER PROJECTS, FLOOD CONTROL
28 PROJECTS AND HIGH HAZARD DAMS AND HOW THOSE PROGRAMS ARE
29 IMPROVING THE HEALTH AND SAFETY OF THE CITIZENS OF THIS
30 COMMONWEALTH.

1 (C) SUBMISSION OF REPORTS.--THE REPORTS REQUIRED UNDER
2 SUBSECTIONS (A) AND (B) SHALL BE SUBMITTED TO THE MAJORITY
3 LEADER OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE
4 MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES AND THE MINORITY
5 LEADER OF THE HOUSE OF REPRESENTATIVES BY OCTOBER 1, 2009, AND
6 OCTOBER 1 OF EACH YEAR THEREAFTER. THE REPORTS SHALL ALSO BE
7 POSTED AND MAINTAINED ON THE OFFICIAL INTERNET WEBSITE OF THE
8 AUTHORITY AND THE DEPARTMENT.

9 CHAPTER 51

10 MISCELLANEOUS PROVISIONS

11 Section 5101. Expenses or costs.

12 ~~No money allocated for the program shall be used for expenses~~ <—
13 ~~or costs incurred by PENNVEST or the department for review and~~
14 ~~technical assistance required under this act. No more than 1% of~~
15 NO MORE THAN 0.5% OF funds from net proceeds from the sale of <—
16 obligations under this act may be used for administrative review
17 AND TECHNICAL ASSISTANCE relating to project review. <—

18 Section 5102. Funds.

19 Funds deposited in the Pennsylvania Gaming Economic
20 Development and Tourism Fund under 4 Pa.C.S. § 1407(c) (relating
21 to Pennsylvania Gaming Economic Development and Tourism Fund)
22 shall not be considered State gaming receipts for purposes of 4
23 Pa.C.S. § 1202(b)(24) (relating to general and specific powers).

24 Section 5103. Limitations.

25 Funds deposited in the Pennsylvania Gaming Economic
26 Development and Tourism Fund shall not be used for grants or
27 loans under 64 Pa.C.S. § 1558 (relating to Water Supply and
28 Wastewater Infrastructure Program).

29 Section 5104. Inconsistent repeal.

30 The provisions of 4 Pa.C.S. § 1407(b) are repealed insofar as

- 1 they are inconsistent with this act.
- 2 Section 5105. Effective date.
- 3 This act shall take effect in 60 days.