

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 ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 9, 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 by
26 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 by two or more municipalities or ~~municipal~~ ←

1 ~~authorities.~~ BY A MUNICIPAL AUTHORITY THAT PROVIDES A WATER OR <—
2 SEWER SYSTEM FOR, OR WATER OR SEWER SERVICES TO, TWO OR MORE
3 MUNICIPALITIES.

4 "Water or sewer project." The acquisition, construction,
5 improvement, including the installation of security measures,
6 expansion, repair or rehabilitation of all or part of a water
7 supply system, sewage disposal system or storm water system.

8 CHAPTER 3

9 ALLOCATION OF FUNDS

10 Section 301. Fund distribution.

11 Notwithstanding the provisions of 4 Pa.C.S. § 1407(b)
12 (relating to Pennsylvania Gaming Economic Development and
13 Tourism Fund), all money in the Pennsylvania Gaming Economic
14 Development and Tourism Fund not previously allocated to
15 projects under the act of July 25, 2007 (P.L.342, No.53), known
16 as Pennsylvania Gaming Economic Development and Tourism Fund
17 Capital Budget Itemization Act of 2007, shall be allocated to
18 the authority for distribution under this act for water or
19 sewer, storm water, flood control and high hazard dam projects.
20 For a ten-year period beginning with the initial deposits under
21 4 Pa.C.S. § 1407(c), no ~~loans or~~ grants shall be distributed for <—
22 any project located in a city or county of the first or second
23 class. FOLLOWING THE ALLOCATION OF ALL PROCEEDS FROM OBLIGATIONS <—
24 ISSUED UNDER SECTION 501(A), ALL MONEY OTHER THAN MONEY REQUIRED
25 FOR DEBT SERVICE SHALL BE AVAILABLE FOR DISTRIBUTION UNDER 4
26 PA.C.S. § 1407. NO MONEY SHALL BE AUTHORIZED OR DISTRIBUTED FOR
27 ANY ECONOMIC DEVELOPMENT OR TOURISM PROJECT WITHIN A CITY OR
28 COUNTY OF THE FIRST OR SECOND CLASS UNTIL SUCH TIME AS AN AMOUNT
29 EQUAL TO \$750,000,000 HAS BEEN AUTHORIZED AND DISTRIBUTED FROM
30 THE FUND FOR ECONOMIC DEVELOPMENT OR TOURISM PROJECTS OUTSIDE OF

1 A CITY OR COUNTY OF THE FIRST OR SECOND CLASS.

2 CHAPTER 5

3 WATER OR SEWER PROJECTS, STORM WATER PROJECTS,
4 FLOOD CONTROL PROJECTS AND HIGH HAZARD DAM PROJECTS

5 Section 501. Commonwealth Financing Authority.

6 (a) General rule.--The authority shall incur indebtedness in
7 an amount of up to ~~\$750,000,000 plus the payment of all~~ <—
8 ~~reasonable costs and expenses related to the issuance of~~
9 ~~indebtedness~~ \$800,000,000 in accordance with 64 Pa.C.S. Ch. 15 <—
10 (relating to Commonwealth Financing Authority). ~~for up to 30~~ <—
11 ~~years.~~ THE TERM OF INDEBTEDNESS SHALL NOT EXCEED 30 YEARS. Net <—
12 proceeds from the sale of obligations incurred under this
13 section shall be allocated by the board for projects set forth
14 under section 502 AND FOR THE PAYMENT OF ALL REASONABLE COSTS <—
15 AND EXPENSES RELATED TO THE ISSUANCE.

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

20 (c) Grants ~~and loans~~.--Proceeds from obligations issued <—
21 under ~~section 501(a)~~ SUBSECTION (A) and money remaining in the <—
22 fund following payment of debt service shall be used for single-
23 year or multiyear ~~loans and~~ grants to eligible applicants for <—
24 projects under ~~subsection (e)~~ THIS CHAPTER following review <—
25 under section 502. Grants ~~and loans~~ shall be awarded to eligible <—
26 applicants for projects of \$500,000 or more. A ~~loan, grant or a~~ <—
27 ~~combination thereof,~~ GRANT under this act shall not exceed a <—
28 total of \$20,000,000 for any project. GRANTS FROM PROCEEDS FROM <—
29 DEBT AND FROM MONEY REMAINING IN THE FUND SHALL BE AWARDED OVER
30 A PERIOD NOT TO EXCEED SIX YEARS.

1 (D) MAKING OF GRANTS.--GRANTS SHALL BE MADE AS FOLLOWS:

2 (1) A MINIMUM OF \$100,000,000 SHALL BE AWARDED TO FLOOD
3 CONTROL PROJECTS.

4 (2) A MINIMUM OF \$25,000,000 SHALL BE AWARDED TO HIGH
5 HAZARD DAM PROJECTS.

6 (E) RECEIPT OF PENNVEST LOAN OR GRANT.--THE RECEIPT OF A
7 LOAN OR GRANT FROM PENNVEST SHALL NOT DISQUALIFY AN APPLICANT
8 FROM ELIGIBILITY FOR A GRANT UNDER THIS ACT.

9 ~~(d)~~ (F) Local participation.--An eligible applicant shall <—
10 provide funds of not less than 50% OF the amount awarded by the <—
11 authority FOR WATER OR SEWER PROJECTS OR FLOOD CONTROL PROJECTS. <—
12 AN ELIGIBLE APPLICANT SHALL PROVIDE FUNDS OF NOT LESS THAN 25%
13 OF THE AMOUNT AWARDED BY THE AUTHORITY FOR HIGH HAZARD DAMS.

14 ~~(e)~~ (G) Applications.--Applications for grants ~~or loans~~ <—
15 under this chapter shall be in a form determined by the board
16 and shall contain plans and other documentation as required by
17 the board. APPLICATIONS SHALL BE AVAILABLE ELECTRONICALLY. <—

18 ~~(f)~~ (H) Guidelines.--The authority shall publish guidelines <—
19 in the Pennsylvania Bulletin relating to the following:

20 (1) Eligibility of applicant.

21 (2) Required documentation.

22 (3) Form of application.

23 (4) Costs of a project that are eligible for a grant ~~or~~ <—
24 ~~loan~~.

25 (5) Requirements and standards of review for eligible
26 projects.

27 (I) NOTIFICATION.-- <—

28 (1) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS

29 SECTION, THE AUTHORITY SHALL SUBMIT FOR PUBLICATION

30 NOTIFICATION OF THE ESTABLISHMENT OF THE PROGRAMS UNDER THIS

1 ACT AND A BRIEF DESCRIPTION OF EACH IN THE PENNSYLVANIA
2 BULLETIN AND ON THE INTERNET WEBSITE OF THE DEPARTMENT OF
3 COMMUNITY AND ECONOMIC DEVELOPMENT. THE AUTHORITY SHALL
4 PROVIDE WRITTEN NOTIFICATION OF THE ESTABLISHMENT OF THE
5 PROGRAMS TO ALL OF THE FOLLOWING:

6 (I) THE COUNTY COMMISSIONERS ASSOCIATION OF
7 PENNSYLVANIA.

8 (II) THE PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP
9 COMMISSIONERS.

10 (III) THE PENNSYLVANIA STATE ASSOCIATION OF TOWNSHIP
11 SUPERVISORS.

12 (IV) THE PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES.

13 (V) THE PENNSYLVANIA MUNICIPAL AUTHORITIES
14 ASSOCIATION.

15 (VI) THE PENNSYLVANIA LEAGUE OF CITIES AND
16 MUNICIPALITIES.

17 (2) THE NOTIFICATION UNDER PARAGRAPH (1) SHALL INCLUDE
18 THE NAME OF A CONTACT PERSON AND THE ANTICIPATED TIME THAT
19 FUNDING, APPLICATIONS AND OTHER INFORMATION WILL BECOME
20 AVAILABLE.

21 Section 502. Distribution of funds.

22 (a) General rule.--The board shall distribute funds
23 available under section 501(c) by awarding grants ~~or loans~~ to ←
24 eligible applicants for the following projects:

25 (1) Water or sewer projects owned by an eligible
26 applicant.

27 (2) Flood control projects owned by an eligible
28 applicant.

29 (3) High hazard dam repair or rehabilitation projects
30 for dams owned by an eligible applicant.

1 (b) Review.--The authority shall consult with the
2 appropriate agency under section 503 and award grants ~~and loans~~ <—
3 in accordance with priorities under section 503 and guidelines
4 adopted under section ~~501(f)~~ 501(H). <—

5 Section 503. Review by agencies.

6 (a) Water or sewer projects.--

7 (1) A minimum of 50% of ~~loans or~~ grants for water or <—
8 sewer projects approved by the authority shall be awarded to
9 projects that will consolidate two or more systems or to
10 regional systems.

11 (2) PRIORITY SHALL BE GIVEN TO ELIGIBLE APPLICANTS THAT <—
12 ARE CURRENTLY SUBJECT TO A FEDERAL OR STATE COURT OR AGENCY
13 ORDER, CONSENT DECREE OR NEW PERMIT DISCHARGE REQUIREMENTS
14 IMPOSED AFTER JANUARY 1, 2007.

15 ~~(2)~~ (3) PENNVEST, IN COOPERATION WITH THE DEPARTMENT, <—
16 shall review all applications for grants ~~and loans~~ under <—
17 section 502(a)(1). The review shall include an analysis of
18 the following:

19 (i) The number of municipalities that will be part
20 of the water or sewer project and the number of
21 municipalities that will benefit from the project.

22 (ii) Whether the construction, repair or
23 consolidation of a water or sewer project will enable
24 customers of the system to be more efficiently served.

25 (iii) The cost-effectiveness of the project when
26 compared to other water or sewer projects.

27 ~~(iv) Improvement in the ability of the eligible <—
28 applicant to come into compliance with Federal and State
29 statutes, regulations or other standards.~~

30 (IV) THE NATURE OF ANY FEDERAL OR STATE COURT OR <—

1 AGENCY ORDER, CONSENT DECREE OR NEW PERMIT DISCHARGE
2 REQUIREMENTS IMPOSED AFTER JANUARY 1, 2007, APPLICABLE TO
3 THE PROJECT.

4 (v) The consistency of the proposed project with
5 other State and regional resource management and economic
6 development plans.

7 (vi) Whether the project serves existing populations
8 or whether the project is intended to serve new
9 development.

10 (vii) Whether the eligible applicant has secured any
11 required planning and permit approvals for the project
12 from the department.

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

15 (b) Flood control projects.--

16 (1) A minimum of 50% of ~~loans or~~ grants for flood ←
17 control projects approved by the authority shall be awarded
18 to projects that will consolidate two or more systems or to
19 regional systems.

20 (2) The department shall review all applications for
21 grants ~~and loans~~ under section 502(a)(2). The review shall ←
22 include an analysis of the following:

23 (i) The number of municipalities that will be part
24 of the flood control project and the number of
25 municipalities that will benefit from the project.

26 (ii) The history of flooding in the area to be
27 served by the flood control project.

28 (iii) The cost-effectiveness of the flood control
29 project.

30 (iv) Improvement in the ability of the eligible

1 applicant to come into compliance with Federal and State
2 statutes, regulations or other standards.

3 (v) Whether the eligible applicant has secured any
4 required planning and permit approvals for the project
5 from the department.

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

8 (c) High hazard dams.--The department shall review all
9 applications for ~~loans and~~ grants under section 502(a)(3). ←

10 (1) The review shall include an analysis of the
11 following:

12 (i) The level of hazard posed by the dam.

13 (ii) Whether the proposed project represents the
14 most cost-effective way to address the hazard.

15 (2) To be eligible, the owner of the high hazard dam
16 shall:

17 (i) Obtain all applicable permits required under the
18 act of November 26, 1978 (P.L.1375, No.325), known as the
19 Dam Safety and Encroachments Act.

20 (ii) Develop an emergency action plan as required by
21 section 5(a)(4) of the Dam Safety and Encroachments Act
22 and distribute the plan to affected county and municipal
23 emergency management officials.

24 (iii) Comply with all inspection requirements and
25 submit inspection reports to the department as required
26 by law.

27 Section 504. Project review.

28 The authority shall review the information received under
29 section 503, prepare an assessment of each project and determine
30 which projects will best utilize and promote the efficient

1 management of water resources and protect the health and safety
2 of the citizens of this Commonwealth.

3 CHAPTER 7

4 REPORTING

5 Section 701. Annual reports.

6 (a) Authority report.--The authority shall provide an annual
7 report, which at a minimum shall include:

8 (1) A list of all ~~loans and grants approved and loans~~ <—
9 ~~repaid~~ during the previous fiscal year.

10 (2) The name and address of each recipient, including
11 the name of a contact person of the recipient.

12 (3) The amount of the ~~loan or~~ grant and a detailed <—
13 description of the project for which the ~~loan or~~ grant was <—
14 awarded.

15 (b) Department report.--The department, in collaboration
16 with PENNVEST, shall provide an annual report, which at a
17 minimum shall include:

18 (1) An analysis of how each program authorized under
19 this act is improving the health and safety of the citizens
20 of this Commonwealth.

21 (2) A summary and analysis of other Commonwealth
22 programs dedicated to water or sewer projects, flood control
23 projects and high hazard dams and how those programs are
24 improving the health and safety of the citizens of this
25 Commonwealth.

26 (c) Submission of reports.--The reports required under
27 subsections (a) and (b) shall be submitted to the Majority
28 Leader of the Senate, the Minority Leader of the Senate, the
29 Majority Leader of the House of Representatives and the Minority
30 Leader of the House of Representatives by October 1, 2009, and

1 October 1 of each year thereafter. The reports shall also be
2 posted and maintained on the official Internet website of the
3 authority and the department.

4 CHAPTER 51

5 MISCELLANEOUS PROVISIONS

6 Section 5101. Expenses or costs.

7 No more than 0.5% of funds from net proceeds from the sale of
8 obligations under this act may be used for administrative review
9 and technical assistance relating to project review.

10 Section 5102. Funds.

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

16 Section 5103. Limitations.

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

21 Section 5104. Inconsistent repeal.

22 The provisions of 4 Pa.C.S. § 1407(b) are repealed insofar as
23 they are inconsistent with this act.

24 Section 5105. Effective date.

25 This act shall take effect in 60 days.