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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1341** Session of  
2008

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INTRODUCED BY MUSTO, RAFFERTY, STOUT, ERICKSON, LAVALLE, FUMO,  
COSTA, WONDERLING, O'PAKE, TARTAGLIONE, WOZNIAK, FONTANA,  
BOSCOLA, GREENLEAF, MELLOW, KASUNIC, KITCHEN, WASHINGTON,  
STACK AND C. WILLIAMS, APRIL 3, 2008

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AS AMENDED ON THIRD CONSIDERATION, JUNE 23, 2008

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AN ACT

1 Authorizing the incurring of indebtedness, with the approval of  
2 the electors, of \$400,000,000 for the acquisition, repair,  
3 construction, reconstruction, rehabilitation, extension,  
4 expansion and improvement of water supply and sewage  
5 treatment systems; and providing for the powers and duties of  
6 the Pennsylvania Infrastructure Investment Authority.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Water and  
11 Sewer Systems Assistance Act.

12 Section 2. Legislative findings.

13 The General Assembly finds and declares as follows:

14 (1) Pennsylvania has an estimated 2,200 drinking water  
15 systems and 1,060 wastewater systems.

16 (2) Drinking water and wastewater treatment systems  
17 protect public health and the environment and are responsible  
18 for cleaning and treating waters of this Commonwealth.

19 (3) Changing Federal and State regulations relative to

1 the treatment of drinking water and wastewater are creating  
2 financial problems for drinking water and wastewater  
3 treatment systems.

4 (4) Many of the drinking water and wastewater treatment  
5 systems must manage aging infrastructure and the maintenance  
6 and replacement costs are estimated to be in excess of  
7 \$18,000,000,000.

8 (5) According to the Environmental Protection Agency,  
9 Pennsylvania ranks seventh in infrastructure financing needs  
10 for water infrastructure.

11 (6) Additional funding sources are needed if  
12 Pennsylvania is to have a sustainable water infrastructure in  
13 the future.

14 (7) The Governor signed executive order 2008-02 creating  
15 a water infrastructure task force to ensure that Pennsylvania  
16 maintains a sustainable drinking water and wastewater  
17 infrastructure.

18 (8) It is beyond the financial means of local ratepayers  
19 to fund all the improvements that are needed for a  
20 sustainable drinking water and wastewater infrastructure.

### 21 Section 3. Definitions.

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

25 "Authority." The Pennsylvania Infrastructure Investment  
26 Authority.

27 "Board." The board of directors of the Pennsylvania  
28 Infrastructure Investment Authority.

29 "Eligible cost." The cost of all labor, materials, necessary  
30 operational machinery and equipment, lands, property, rights and

1 easements, plans and specifications, surveys, estimates of costs  
2 and revenues, prefeasibility studies, engineering and legal  
3 services and all other expenses necessary or incident to the  
4 acquisition, construction, improvement, expansion, extension,  
5 repair or rehabilitation of all or part of a project.

6 "Grant." A direct payment from the Pennsylvania  
7 Infrastructure Investment Authority to a municipality.

8 "Municipality." A county, city, borough, incorporated town,  
9 township, home rule municipality and any municipal authority  
10 responsible for the provision of drinking water or sewage  
11 treatment services to any of them.

12 "Project." The acquisition, construction, improvement,  
13 expansion, extension, repair, rehabilitation or security  
14 measures of all or part of a facility or system for:

15 (1) the collection, treatment or disposal of wastewater,  
16 including industrial waste;

17 (2) the supply, treatment, storage or distribution of  
18 drinking water;

19 (3) the control and elimination of combined sewer  
20 overflows, defined as a point source discharge from a sewer  
21 system that combines sanitary wastewaters and storm waters;

22 (4) the reductions of nitrogen, phosphorus and sediment  
23 to comply with Pennsylvania's Chesapeake Bay Tributary  
24 Strategy;

25 (5) the control of storm water, which may include, but  
26 is not limited to, the transport, storage and the  
27 infiltration of storm water; or

28 (6) the best management practices to address point or  
29 nonpoint source pollution associated with storm water runoff  
30 or any other innovative techniques identified in the county-

1 prepared watershed plans pursuant to the act of October 4,  
2 1978 (P.L.864, No.167), known as the Storm Water Management  
3 Act.

4 Section 4. Approval of debt incurrence by electors.

5 The question of incurring indebtedness of \$400,000,000 for  
6 grants and loans for the cost of all labor, materials, necessary  
7 operational machinery and equipment, lands, property, rights and  
8 easements, plans and specifications, surveys, estimates of costs  
9 and revenues, prefeasibility studies, engineering and legal  
10 services and all other expenses necessary or incident to the  
11 acquisition, construction, improvement, expansion, extension,  
12 repair or rehabilitation of all or part of a project shall be  
13 submitted to the electors at the next primary, municipal or  
14 general election following the effective date of this section.

15 Section 5. Certification.

16 The Secretary of the Commonwealth shall certify the question  
17 under section 4 to the county board of elections.

18 Section 6. Form of question.

19 The question under section 4 shall be in substantially the  
20 following form:

21 Do you favor the incurring of indebtedness by the  
22 Commonwealth of \$400,000,000 for grants and loans to  
23 municipalities for the cost of all labor, materials,  
24 necessary operational machinery and equipment, lands,  
25 property, rights and easements, plans and specifications,  
26 surveys, estimates of costs and revenues, prefeasibility  
27 studies, engineering and legal services and all other  
28 expenses necessary or incident to the acquisition,  
29 construction, improvement, expansion, extension, repair  
30 or rehabilitation of all or part of drinking water system

1 and wastewater treatment system projects?

2 Section 7. Election.

3 The election shall be conducted in accordance with the act of  
4 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
5 Election Code.

6 Section 8. Proceeds.

7 (a) Use.--Proceeds of borrowing shall be deposited in a  
8 special fund in the State Treasury and shall be used for grants  
9 and loans by the Pennsylvania Infrastructure Investment  
10 Authority for drinking water system and wastewater treatment  
11 system projects.

12 (b) Appropriation.--The proceeds of all bonds sold under  
13 this act are hereby appropriated on a continuing basis to the  
14 Pennsylvania Infrastructure Investment Authority for the purpose  
15 of making loans and grants under this act.

16 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of  
17 Article VIII of the Constitution of Pennsylvania, the issuing  
18 officials are authorized and directed to borrow, on the credit  
19 of the Commonwealth, money not exceeding in the aggregate  
20 \$400,000,000 in increments of not more than \$150,000,000 every  
21 year over a three-year period after the effective date of this  
22 section.

23 (d) Grant limitations.--

24 (1) The aggregate amount of grants awarded under this  
25 section shall not exceed \$200,000,000.

26 (2) No grant awarded under this act shall be used to  
27 repair, rehabilitate or improve any sewage treatment system  
28 or drinking water system on private property.

29 (3) The board shall have no power to award any grant,  
30 loan or combination thereof that exceeds the following

1 monetary limits:

2 (i) For a sewage treatment system that has an annual  
3 average daily flow greater than 100,000,000 gallons per  
4 day or a water system that serves a population greater  
5 than 300,000 people, \$20,000,000.

6 (ii) For a sewage treatment system that has an  
7 annual average daily flow greater than 50,000,000 gallons  
8 per day but less than 100,000,000 gallons per day or a  
9 water system that serves a population between 100,000 and  
10 300,000 people, \$15,000,000.

11 (iii) For a sewage treatment system that has an  
12 annual average daily flow greater than 20,000,000 gallons  
13 per day but less than 50,000,000 gallons per day or a  
14 water system that serves a population between 10,000 and  
15 100,000 people, \$10,000,000.

16 (iv) For a sewage treatment system that has an  
17 annual average daily flow greater than 10,000,000 gallons  
18 per day but less than 20,000,000 gallons per day or a  
19 water system that serves a population between 3,301 and  
20 10,000 people, \$5,000,000.

21 (v) For a sewage treatment system that has an annual  
22 average daily flow greater than 1,000,000 gallons per day  
23 but less than 10,000,000 gallons per day or a water  
24 system that serves a population between 501 and 3,300  
25 people, \$3,000,000.

26 (vi) For a sewage treatment system that has an  
27 annual average daily flow less than 1,000,000 gallons per  
28 day or a water system that serves a population less than  
29 500 people, \$2,000,000.

30 (4) Notwithstanding the provisions of paragraph (3), the

1 board by a vote of at least nine members may authorize a  
2 grant in excess of the limits established in paragraph (3) to  
3 comprehensive projects providing or proposing consolidated  
4 service to a region encompassing all or parts of two or more  
5 municipalities.

6 (5) Proceeds from the bond issued under this act may be  
7 used for grants or loans to assist a public utility to  
8 acquire a small sewer utility or small water utility as  
9 defined under 66 Pa.C.S. § 529 (relating to power of  
10 commission to order acquisition of small water and sewer  
11 utilities) if BOTH OF the following apply: ←

12 (i) The Pennsylvania Public Utility Commission has  
13 determined that the small sewer utility or small water  
14 utility has provided unsafe, inadequate or unreasonable  
15 service.

16 (ii) The Pennsylvania Public Utility Commission has  
17 assessed civil penalties against the small sewer utility  
18 or small water utility.

19 (6) NOT MORE THAN \$50,000,000 OF GRANT PROCEEDS FROM ←  
20 THIS ACT SHALL BE USED TO REPAIR, REHABILITATE OR IMPROVE  
21 DRINKING WATER SYSTEMS.

22 (e) Restrictions.--Grants and loans awarded under this act  
23 shall not be subject to section 10(e) of the act of March 1,  
24 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure  
25 Investment Authority Act, or to 25 Pa. Code §§ 961.5(e)  
26 (relating to wastewater project evaluation criteria) and 961.9  
27 (relating to grants).

28 Section 9. Powers and duties of board.

29 (a) General rule.--By March 31, 2009, the board shall  
30 implement and administer the proceeds of the bond under section

1 8 in conformity with the provisions of section 10 of the act of  
2 March 1, 1988 (P.L.82, No.16), known as the Pennsylvania  
3 Infrastructure Investment Authority Act.

4 (b) Specific powers of board.--In addition to any powers  
5 under subsection (a), the board shall have the power to:

6 (1) Develop forms for the applications of grants and  
7 loans.

8 (2) Promulgate regulations to implement the provisions  
9 of this act.

10 (3) Take all other actions necessary to implement and  
11 administer the provisions of this act.

12 Section 10. Effective date.

13 This act shall take effect immediately.