
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1341 Session of
2008

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

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 30, 2008

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

1 for cleaning and treating waters of this Commonwealth.

2 (3) Changing Federal and State regulations relative to
3 the treatment of drinking water and wastewater are creating
4 financial problems for drinking water and wastewater
5 treatment systems.

6 (4) Many of the drinking water and wastewater treatment
7 systems must manage aging infrastructure and the maintenance
8 and replacement costs are estimated to be in excess of
9 \$18,000,000,000.

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

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

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

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

23 Section 3. Definitions.

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

27 "Authority." The Pennsylvania Infrastructure Investment
28 Authority.

29 "Board." The board of directors of the Pennsylvania
30 Infrastructure Investment Authority.

1 "Eligible cost." The cost of all labor, materials, necessary
2 operational machinery and equipment, lands, property, rights and
3 easements, plans and specifications, surveys, estimates of costs
4 and revenues, prefeasibility studies, engineering and legal
5 services and all other expenses necessary or incident to the
6 acquisition, construction, improvement, expansion, extension,
7 repair or rehabilitation of all or part of a project.

8 "Grant." ~~A direct payment from the Pennsylvania~~ ←
9 ~~Infrastructure Investment Authority to a municipality.~~ THE AWARD ←
10 AND DISTRIBUTION OF FUNDS FOR ELIGIBLE COSTS BY THE PENNSYLVANIA
11 INFRASTRUCTURE INVESTMENT AUTHORITY IF REPAYMENT IS NOT
12 EXPECTED.

13 "Municipality." A county, city, borough, incorporated town,
14 township, home rule municipality and any municipal authority
15 responsible for the provision of drinking water or sewage
16 treatment services to any of them.

17 "NUTRIENT." NITROGEN OR PHOSPHORUS. ←

18 "NUTRIENT CREDIT." THE UNIT OF COMPLIANCE THAT CORRESPONDS
19 WITH A POUND OF REDUCTION OF A NUTRIENT AND THAT HAS BEEN
20 APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

21 "Project." The acquisition, construction, improvement,
22 expansion, extension, repair, rehabilitation or security
23 measures of all or part of a facility or system for:

24 (1) the collection, treatment or disposal of wastewater,
25 including industrial waste;

26 (2) the supply, treatment, storage or distribution of
27 drinking water;

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

1 (4) the reductions of nitrogen, phosphorus and sediment
2 to comply with Pennsylvania's Chesapeake Bay Tributary
3 Strategy, INCLUDING THE PURCHASE OR TRADING OF NUTRIENT ←
4 CREDITS;

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

8 (6) the best management practices to address point or
9 nonpoint source pollution associated with storm water runoff
10 or any other innovative techniques identified in the county-
11 prepared watershed plans pursuant to the act of October 4,
12 1978 (P.L.864, No.167), known as the Storm Water Management
13 Act.

14 (7) THE CONTROL OF NONPOINT SOURCES OF POLLUTION ←
15 IDENTIFIED IN PROGRAMS ESTABLISHED UNDER SECTION 319 OF THE
16 FEDERAL WATER POLLUTION CONTROL ACT (62 STAT. 1155, 33 U.S.C.
17 § 1329).

18 Section 4. Approval of debt incurrence by electors.

19 The question of incurring indebtedness of \$400,000,000 for
20 grants and loans for the cost of all labor, materials, necessary
21 operational machinery and equipment, lands, property, rights and
22 easements, plans and specifications, surveys, estimates of costs
23 and revenues, prefeasibility studies, engineering and legal
24 services and all other expenses necessary or incident to the
25 acquisition, construction, improvement, expansion, extension,
26 repair or rehabilitation of all or part of a project shall be
27 submitted to the electors at the next primary, municipal or
28 general election following the effective date of this section.

29 Section 5. Certification.

30 The Secretary of the Commonwealth shall certify the question

1 under section 4 to the county board of elections.

2 Section 6. Form of question.

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

5 Do you favor the incurring of indebtedness by the
6 Commonwealth of \$400,000,000 for grants and loans to
7 municipalities for the cost of all labor, materials,
8 necessary operational machinery and equipment, lands,
9 property, rights and easements, plans and specifications,
10 surveys, estimates of costs and revenues, prefeasibility
11 studies, engineering and legal services and all other
12 expenses necessary or incident to the acquisition,
13 construction, improvement, expansion, extension, repair
14 or rehabilitation of all or part of drinking water system
15 and wastewater treatment system projects?

16 Section 7. Election.

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

20 Section 8. Proceeds.

21 (a) Use.--Proceeds of borrowing shall be deposited in a
22 special fund in the State Treasury and shall be used for grants
23 and loans by the Pennsylvania Infrastructure Investment
24 Authority for drinking water system and wastewater treatment
25 system projects.

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

30 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of

1 Article VIII of the Constitution of Pennsylvania, the issuing
2 officials are authorized and directed to borrow, on the credit
3 of the Commonwealth, money not exceeding in the aggregate
4 \$400,000,000 in increments of not more than \$150,000,000 every
5 year over a three-year period after the effective date of this
6 section.

7 (d) Grant limitations.--

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

10 ~~(2) No grant awarded under this act shall be used to~~ <—
11 ~~repair, rehabilitate or improve any sewage treatment system~~
12 ~~or drinking water system on private property.~~

13 ~~(3)~~ (2) The board shall have no power to award any <—
14 grant, loan or combination thereof that exceeds the following
15 monetary limits:

16 (i) For a sewage treatment system that has an annual
17 average daily flow greater than 100,000,000 gallons per
18 day or a water system that serves a population greater
19 than 300,000 people, ~~\$20,000,000~~ \$50,000,000. <—

20 (ii) For a sewage treatment system that has an
21 annual average daily flow greater than 50,000,000 gallons
22 per day but less than 100,000,000 gallons per day or a
23 water system that serves a population between 100,000 and
24 300,000 people, ~~\$15,000,000~~ \$35,000,000. <—

25 (iii) For a sewage treatment system that has an
26 annual average daily flow greater than 20,000,000 gallons
27 per day but less than 50,000,000 gallons per day or a
28 water system that serves a population between 10,000 and
29 100,000 people, ~~\$10,000,000~~ \$25,000,000. <—

30 (iv) For a sewage treatment system that has an

1 annual average daily flow greater than 10,000,000 gallons
2 per day but less than 20,000,000 gallons per day or a
3 water system that serves a population between 3,301 and
4 10,000 people, ~~\$5,000,000~~ \$20,000,000. ←

5 (v) For a sewage treatment system that has an annual
6 average daily flow greater than 1,000,000 gallons per day
7 but less than 10,000,000 gallons per day or a water
8 system that serves a population between 501 and 3,300
9 people, ~~\$3,000,000~~ \$15,000,000. ←

10 (vi) For a sewage treatment system that has an
11 annual average daily flow less than 1,000,000 gallons per
12 day or a water system that serves a population less than
13 500 people, ~~\$2,000,000~~ \$10,000,000. ←

14 ~~(4)~~ (3) Notwithstanding the provisions of paragraph ~~(3)~~ ←
15 (2), the board by a vote of at least nine members may ←
16 authorize a grant in excess of the limits established in
17 paragraph ~~(3)~~ (2) to comprehensive projects providing or ←
18 proposing consolidated service to a region encompassing all
19 or parts of two or more municipalities.

20 ~~(5)~~ (4) Proceeds from the bond issued under this act may ←
21 be used for grants or loans to assist a public utility to
22 acquire a small sewer utility or small water utility as
23 defined under 66 Pa.C.S. § 529 (relating to power of
24 commission to order acquisition of small water and sewer
25 utilities) if both of the following apply:

26 (i) The Pennsylvania Public Utility Commission has
27 determined that the small sewer utility or small water
28 utility has provided unsafe, inadequate or unreasonable
29 service.

30 (ii) The Pennsylvania Public Utility Commission has

1 assessed civil penalties against the small sewer utility
2 or small water utility.

3 ~~(6)~~ (5) Not more than \$50,000,000 of grant proceeds from <—
4 this act shall be used to repair, rehabilitate or improve
5 drinking water systems.

6 ~~(c) Restrictions. Grants and loans awarded under this act <—~~
7 ~~shall not be subject to section 10(e) of the act of March 1,~~
8 ~~1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure~~
9 ~~Investment Authority Act, or to 25 Pa. Code §§ 961.5(e)~~
10 ~~(relating to wastewater project evaluation criteria) and 961.9~~
11 ~~(relating to grants).~~

12 (E) CONSTRUCTION.--NOTHING IN THIS ACT SHALL PROHIBIT THE <—
13 USE OF FUNDS ALLOCATED UNDER THE PROVISIONS OF THIS ACT FOR
14 PROJECTS INVOLVING THE PURCHASE OR TRADING OF NUTRIENT CREDITS.
15 Section 9. Powers and duties of board.

16 (a) General rule.--By March 31, 2009, the board shall
17 implement and administer the proceeds of the bond under section
18 8 in conformity with the provisions of section 10 of the act of
19 March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
20 Infrastructure Investment Authority Act.

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

23 (1) Develop forms for the applications of grants and
24 loans.

25 (2) Promulgate regulations to implement the provisions
26 of this act.

27 (3) PROVIDE FOR THE IMPLEMENTATION OF A COMMERCIAL PAPER <—
28 PROGRAM AND THE ISSUANCE OF BONDS IN GROUPS OR INDIVIDUALLY
29 IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF SECTION 7 OR
30 THE ACT OF MARCH 1, 1988 (P.L.82, NO.16), KNOWN AS THE

1 PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY ACT. BONDS
2 ISSUED UNDER THE PROGRAM ESTABLISHED UNDER THIS PARAGRAPH
3 SHALL NOT BE REQUIRED TO BE SOLD AT PUBLIC SALE.

4 ~~(3)~~ (4) Take all other actions necessary to implement ←
5 and administer the provisions of this act.

6 Section 10. Effective date.

7 This act shall take effect immediately.