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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 SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JULY 2, 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

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 ~~EXPECTED~~ <—  
12 REQUIRED. <—

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); OR

18 (8) THE CONSOLIDATION OR REGIONALIZATION OF TWO OR MORE ←  
19 WATER SUPPLY SYSTEMS, SEWAGE DISPOSAL SYSTEMS OR STORM WATER  
20 SYSTEMS MANAGED OR OPERATED AS AN INTEGRATED SYSTEM,  
21 REGARDLESS OF WHETHER THE SYSTEM IS PHYSICALLY  
22 INTERCONNECTED.

23 Section 4. Approval of debt incurrence by electors.

24 The question of incurring indebtedness of \$400,000,000 for  
25 grants and loans for the cost of all labor, materials, necessary  
26 operational machinery and equipment, lands, property, rights and  
27 easements, plans and specifications, surveys, estimates of costs  
28 and revenues, prefeasibility studies, engineering and legal  
29 services and all other expenses necessary or incident to the  
30 acquisition, construction, improvement, expansion, extension,

1 repair or rehabilitation of all or part of a project shall be  
2 submitted to the electors at the next primary, municipal or  
3 general election following the effective date of this section.

4 Section 5. Certification.

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

7 Section 6. Form of question.

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

10 Do you favor the incurring of indebtedness by the  
11 Commonwealth of \$400,000,000 for grants and loans to  
12 municipalities AND PUBLIC UTILITIES for the cost of all ←  
13 labor, materials, necessary operational machinery and  
14 equipment, lands, property, rights and easements, plans  
15 and specifications, surveys, estimates of costs and  
16 revenues, prefeasibility studies, engineering and legal  
17 services and all other expenses necessary or incident to  
18 the acquisition, construction, improvement, expansion,  
19 extension, repair or rehabilitation of all or part of  
20 drinking water system, STORM WATER, NONPOINT SOURCE ←  
21 PROJECTS, NUTRIENT CREDITS and wastewater treatment  
22 system projects?

23 Section 7. Election.

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

27 Section 8. Proceeds.

28 (a) Use.--Proceeds of borrowing shall be deposited in a  
29 special fund in the State Treasury and shall be used for grants  
30 and loans by the Pennsylvania Infrastructure Investment

1 Authority for ~~drinking water system and wastewater treatment~~ <—  
2 ~~system~~ projects.

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

7 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of  
8 Article VIII of the Constitution of Pennsylvania, the issuing  
9 officials are authorized and directed to borrow, on the credit  
10 of the Commonwealth, money not exceeding in the aggregate  
11 \$400,000,000 in increments of not more than \$150,000,000 every  
12 year over a three-year period after the effective date of this  
13 section.

14 (d) Grant limitations.--

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

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

20 ~~(3)~~ (2) The board shall have no power to award any <—  
21 grant, loan or combination thereof that exceeds the following  
22 monetary limits:

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

27 (ii) For a sewage treatment system that has an  
28 annual average daily flow greater than 50,000,000 gallons  
29 per day but less than 100,000,000 gallons per day or a  
30 water system that serves a population between 100,000 and

1 300,000 people, ~~\$15,000,000~~ \$35,000,000. ←

2 (iii) For a sewage treatment system that has an  
3 annual average daily flow greater than 20,000,000 gallons  
4 per day but less than 50,000,000 gallons per day or a  
5 water system that serves a population between 10,000 and  
6 100,000 people, ~~\$10,000,000~~ \$25,000,000. ←

7 (iv) For a sewage treatment system that has an  
8 annual average daily flow greater than 10,000,000 gallons  
9 per day but less than 20,000,000 gallons per day or a  
10 water system that serves a population between 3,301 and  
11 10,000 people, ~~\$5,000,000~~ \$20,000,000. ←

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

17 (vi) For a sewage treatment system that has an  
18 annual average daily flow less than 1,000,000 gallons per  
19 day or a water system that serves a population less than  
20 500 people, ~~\$2,000,000~~ \$10,000,000. ←

21 ~~(4)~~ (3) Notwithstanding the provisions of paragraph ~~(3)~~ ←  
22 (2), the board by a vote of at least nine members may ←  
23 authorize a grant in excess of the limits established in  
24 paragraph ~~(3)~~ (2) to comprehensive projects providing or ←  
25 proposing consolidated service to a region encompassing all  
26 or parts of two or more municipalities.

27 ~~(5)~~ (4) Proceeds from the bond issued under this act may ←  
28 be used for grants or loans to assist a public utility to  
29 acquire a small sewer utility or small water utility as  
30 defined under 66 Pa.C.S. § 529 (relating to power of

1 commission to order acquisition of small water and sewer  
2 utilities) if both of the following apply:

3 (i) The Pennsylvania Public Utility Commission has  
4 determined that the small sewer utility or small water  
5 utility has provided unsafe, inadequate or unreasonable  
6 service.

7 (ii) The Pennsylvania Public Utility Commission has  
8 assessed civil penalties against the small sewer utility  
9 or small water utility.

10 ~~(6) (5) Not more than \$50,000,000 of grant proceeds from~~ <—  
11 ~~this act shall be used to repair, rehabilitate or improve~~  
12 ~~drinking water systems.~~

13 ~~(c) Restrictions. Grants and loans awarded under this act~~ <—  
14 ~~shall not be subject to section 10(c) of the act of March 1,~~  
15 ~~1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure~~  
16 ~~Investment Authority Act, or to 25 Pa. Code §§ 961.5(e)~~  
17 ~~(relating to wastewater project evaluation criteria) and 961.9~~  
18 ~~(relating to grants).~~

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

23 (a) General rule.--By March 31, 2009, the board shall  
24 implement and administer the proceeds of the bond under section  
25 8 in conformity with the provisions of section 10 of the act of  
26 March 1, 1988 (P.L.82, No.16), known as the Pennsylvania  
27 Infrastructure Investment Authority Act.

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

30 (1) Develop forms for the applications of grants and



1 loans.

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

4 (3) PROVIDE FOR THE IMPLEMENTATION OF A COMMERCIAL PAPER <—  
5 PROGRAM AND THE ISSUANCE OF BONDS, NOTES OR OTHER OBLIGATIONS <—  
6 IN GROUPS OR INDIVIDUALLY IN A MANNER CONSISTENT WITH THE  
7 REQUIREMENTS OF SECTION 7 OR THE ACT OF MARCH 1, 1988  
8 (P.L.82, NO.16), KNOWN AS THE PENNSYLVANIA INFRASTRUCTURE  
9 INVESTMENT AUTHORITY ACT. BONDS ISSUED UNDER THE PROGRAM  
10 ESTABLISHED UNDER THIS PARAGRAPH SHALL NOT BE REQUIRED TO BE  
11 SOLD AT PUBLIC SALE.

12 ~~(3)~~ (4) Take all other actions necessary to implement <—  
13 and administer the provisions of this act.

14 Section 10. Effective date.

15 This act shall take effect immediately.