

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 546 Session of 2011

INTRODUCED BY PETRI, CALTAGIRONE, D. COSTA, CUTLER, DENLINGER,  
GEIST, GEORGE, HENNESSEY, LONGIETTI, MURT, RAPP, SCAVELLO,  
K. SMITH, WAGNER, WATSON AND WHITE, FEBRUARY 8, 2011

REFERRED TO COMMITTEE ON APPROPRIATIONS, FEBRUARY 8, 2011

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 Pennsylvania infrastructure,  
5 including roads, bridges, railroads, dams, water supply and  
6 sewage treatment systems, energy, communications, flood  
7 control measures and any other such infrastructure the  
8 Pennsylvania Infrastructure Investment Authority deems  
9 relevant; and providing for the powers and duties of the  
10 Pennsylvania Infrastructure Investment Authority.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Rebuild  
15 Pennsylvania Infrastructure Assistance Act.

16 Section 2. Definitions.

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

20 "Board." The board of directors of the Pennsylvania  
21 Infrastructure Investment Authority.

1 "Fund." The Pennsylvania Infrastructure Bond Fund.

2 "Infrastructure." Technical structures that support a  
3 society, including roads, bridges, railroads, dams, water supply  
4 and sewage treatment systems, energy, communications, flood  
5 control measures and any other such structures the Pennsylvania  
6 Infrastructure Investment Authority deems relevant.

7 Section 3. Approval of debt incurrence by electors.

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

18 Section 4. Certification.

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

21 Section 5. Form of question.

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

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

1 construction, improvement, expansion, extension, repair or  
2 rehabilitation of all or part of Pennsylvania infrastructure,  
3 including roads, bridges, railroads, dams, water supply and  
4 sewage treatment systems, energy, communications, flood  
5 control measures and any other such infrastructure the  
6 Pennsylvania Infrastructure Investment Authority deems  
7 relevant?

8 Section 6. Election.

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

12 Section 7. Pennsylvania Infrastructure Bond Fund.

13 (a) Purpose of fund.--The Pennsylvania Infrastructure Bond  
14 Fund, which is created in the State Treasury, shall be the  
15 source from which all payments are authorized with the approval  
16 of the Governor to carry out the purposes of this act. The  
17 moneys in the fund shall only be utilized:

18 (1) For the acquisition, repair, construction,  
19 reconstruction, rehabilitation, extension, expansion and  
20 improvement of Pennsylvania infrastructure, including roads,  
21 bridges, railroads, dams, water supply and sewage treatment  
22 systems, energy, communications, flood control measures and  
23 any other such infrastructure the Pennsylvania Infrastructure  
24 Investment Authority deems relevant.

25 (2) For the administrative costs incurred in any of the  
26 purposes in paragraph (1), including the costs incurred in  
27 connection with the issuance of the bonds.

28 (b) Interfund transfers authorized.--

29 (1) Whenever the cash balance and the current estimated  
30 receipts of the fund shall be insufficient at any time during

1 any State fiscal year to meet promptly the obligations of the  
2 Commonwealth from such fund, the State Treasurer is hereby  
3 authorized and directed, from time to time during such fiscal  
4 year, to transfer from the General Fund to the fund such sums  
5 as the Governor directs, but in no case less than the amount  
6 necessary to meet promptly the obligations to be paid from  
7 the fund, nor more than an amount which is the smaller of:

8 (i) the difference between the amount of debt  
9 authorized to be issued under the authority of this act  
10 and the aggregate principal amount of bonds and notes  
11 issued, not including refunding bonds and replacement  
12 notes; and

13 (ii) the difference between the aggregate principal  
14 amount of bonds and notes, not including refunding bonds  
15 and replacement notes, issued during such State fiscal  
16 year.

17 Any sums so transferred shall be available only for the  
18 purposes for which they are appropriated from the fund. The  
19 transfers shall be made under this section upon warrant of  
20 the State Treasurer upon requisition of the Governor.

21 (2) In order to reimburse the General Fund for moneys  
22 transferred under paragraph (1), there shall be transferred  
23 to the General Fund from the fund moneys from the proceeds  
24 obtained from bonds and notes issued under the authority of  
25 this act or from other available funds in such amounts and at  
26 such times as the Governor shall direct. The retransfers  
27 shall be made upon warrant of the State Treasurer upon  
28 requisition of the Governor.

29 Section 8. Proceeds.

30 (a) Use.--Proceeds of borrowing shall be deposited in the

1 Pennsylvania Infrastructure Bond Fund in the State Treasury and  
2 shall be used for grants and loans by the Pennsylvania  
3 Investment Authority for the acquisition, repair, construction,  
4 reconstruction, rehabilitation, extension, expansion and  
5 improvement of Pennsylvania infrastructure. All proceeds shall  
6 be prohibited from being allocated to foreign materials or  
7 labor, and there shall be language on the back of the  
8 obligations clarifying this.

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

13 (c) Borrowing authorized.--

14 (1) If and when the electorate approves a referendum  
15 question for the incurring of indebtedness in the amount and  
16 for the purposes prescribed in this act, the issuing  
17 officials, under section 7(a)(3) of Article VIII of the  
18 Constitution of Pennsylvania, are authorized and directed to  
19 borrow, on the credit of the Commonwealth, money not  
20 exceeding in the aggregate sum of \$400,000,000, not including  
21 money borrowed to refund outstanding bonds, notes or  
22 replacement notes, as may be found necessary to carry out the  
23 purposes of this act.

24 (2) As evidence of the indebtedness, general obligation  
25 bonds of the Commonwealth shall be issued from time to time  
26 to provide moneys necessary to carry out the purposes of this  
27 act for such total amounts, in such form, in such  
28 denominations and subject to such terms and conditions of  
29 issue, redemption and maturity, rate of interest and time of  
30 payment of interest as the issuing officials direct, except

1       that the latest stated maturity date shall not exceed 20  
2       years from the date of the first obligation issued to  
3       evidence the debt, the obligations shall be issued in \$100  
4       increments and at a rate of 5%.

5       (3) All bonds and notes issued under the authority of  
6       this act shall bear facsimile signatures of the issuing  
7       officials and a facsimile of the Great Seal of the  
8       Commonwealth and shall be countersigned by a duly authorized  
9       officer of a duly authorized loan and transfer agent of the  
10      Commonwealth.

11      (4) All bonds and notes issued in accordance with this  
12      act shall be direct obligations of the Commonwealth, and the  
13      full faith and credit of the Commonwealth is hereby pledged  
14      for the payment of the interest thereon, as it becomes due,  
15      and the payment of the principal at maturity. The principal  
16      of and interest on the bonds and notes shall be payable in  
17      lawful money of the United States.

18      (5) All bonds and notes issued under this act shall be  
19      exempt from taxation for State and local purposes.

20      (6) The bonds may be issued as coupon bonds or  
21      registered as to both principal and interest as the issuing  
22      officials may determine. If interest coupons are attached,  
23      they shall contain the facsimile signature of the State  
24      Treasurer.

25      (7) The issuing officials shall provide for the  
26      amortization of the bonds in substantial and regular amounts  
27      over the term of the debt so that the bonds of each issue  
28      allocated to the projects to be funded from the bond issue  
29      shall mature within a period not to exceed the appropriate  
30      amortization period for each project as specified by the

1 issuing officials, but in no case in excess of 20 years. The  
2 first retirement of principal shall be stated to mature prior  
3 to the expiration of a period of time equal to one-tenth of  
4 the time from the date of the first obligation issued to  
5 evidence the debt to the date of the expiration of the term  
6 of debt. Retirements of principal shall be regular and  
7 substantial if made in annual or semiannual amounts whether  
8 by stated serial maturities or by mandatory sinking fund  
9 retirements.

10 (8) The issuing officials are authorized to provide by  
11 resolution for the issuance of refunding bonds for the  
12 purpose of refunding any debt issued under this act and then  
13 outstanding, either by voluntary exchange with the holders of  
14 the outstanding debt or providing funds to redeem and retire  
15 the outstanding debt with accrued interest, any premium  
16 payable thereon and the costs of issuance and retirement of  
17 the debt at maturity or at any call date. The issuance of the  
18 refunding bonds, the maturities and other details thereof,  
19 the rights of the holders thereof and the duties of the  
20 issuing official in respect thereto shall be governed by this  
21 section insofar as they may be applicable. Refunding bonds,  
22 which are not subject to the aggregate limitation of  
23 \$400,000,000 of debt to be issued under this act, may be  
24 issued by the issuing officials to refund debt originally  
25 issued or to refund bonds previously issued for refunding  
26 purposes.

27 (9) Whenever any action is to be taken or decision made  
28 by the Governor, the Auditor General and the State Treasurer  
29 acting as issuing officials and the these officials are not  
30 able unanimously to agree, the action or decision of the

1 Governor and either the Auditor General or the State  
2 Treasurer shall be binding and final.

3 (d) Sale of bonds.--

4 (1) Whenever bonds are issued, they shall be offered for  
5 sale at not less than 98% of the principal amount and accrued  
6 interest and shall be sold by the issuing officials to the  
7 highest and best bidder or bidders after due public  
8 advertisement on the terms and conditions and upon such open  
9 competitive bidding as the issuing officials shall direct.  
10 The manner and character of the advertisement and the time of  
11 advertising shall be prescribed by the issuing officials. No  
12 commission shall be allowed or paid for the sale of any bonds  
13 issued under the authority of this act.

14 (2) Any portion of any bond issue so offered and not  
15 sold or subscribed for at public sale may be disposed of by  
16 private sale by the issuing officials in such manner and at  
17 such prices, not less than 98% of the principal amount and  
18 accrued interest, as the Governor shall direct. No commission  
19 shall be allowed or paid for the sale of any bonds issued  
20 under the authority of this act.

21 (3) When bonds are issued from time to time, the bonds  
22 of each issue shall constitute a separate series to be  
23 designated by the issuing officials or may be combined for  
24 sale as one series with other general obligation bonds of the  
25 Commonwealth.

26 (4) Until permanent bonds can be prepared, the issuing  
27 officials may, in their discretion, issue, in lieu of  
28 permanent bonds, temporary bonds in such form and with such  
29 privileges as to registration and exchange from permanent  
30 bonds as may be determined by the issuing officials.

1           (5) The proceeds realized from the sale of bonds and  
2 notes, except refunding bonds and replacement notes, under  
3 this act shall be paid into the fund. The proceeds shall be  
4 paid by the State Treasurer periodically to those  
5 Commonwealth officers and Commonwealth agencies authorized to  
6 expend them at such times and in such amounts as may be  
7 necessary to satisfy the funding needs thereof. The proceeds  
8 of the sale of refunding bonds and replacement notes shall be  
9 paid to the State Treasurer and applied to the payment of  
10 principal, the accrued interest and premium, if any, and cost  
11 of redemption of the bonds and notes for which the  
12 obligations shall have been issued.

13          (6) Pending their application for the purposes  
14 authorized, moneys held or deposited by the State Treasurer  
15 may be invested or reinvested as are other funds in the  
16 custody of the State Treasurer in the manner provided by law.  
17 All earnings received from the investment or deposit of the  
18 funds shall be paid into the State Treasury to the credit of  
19 the fund. The earnings in excess of bond discounts allowed,  
20 expenses paid for the issuance of bonds and notes and  
21 interest arbitrage rebates due to the Federal Government  
22 shall be transferred annually to the fund. Any interest or  
23 investment income shall be applied to assist in the payment  
24 of the debt service incurred in connection with this act.

25          (7) The Auditor General shall prepare the necessary  
26 registry book to be kept in the office of the duly authorized  
27 loan and transfer agent of the Commonwealth for the  
28 registration of any bonds, at the request of owners thereof,  
29 according to the terms and conditions of issue directed by  
30 the issuing officials.

1           (8) There is hereby appropriated to the State Treasurer  
2 from the fund as much money as may be necessary for all costs  
3 and expenses in connection with the issue, sale and  
4 registration of the bonds and notes in connection with this  
5 act and the payment of interest arbitrage rebates or proceeds  
6 of such bonds and notes.

7       (e) Temporary financing authorization.--

8           (1) Pending the issuance of bonds of the Commonwealth as  
9 authorized, the issuing officials are hereby authorized, in  
10 accordance with this act and on the credit of the  
11 Commonwealth, to make temporary borrowings not to exceed  
12 three years in anticipation of the issue of bonds in order to  
13 provide funds in such amounts as may from time to time be  
14 deemed advisable prior to the issue of bonds. In order to  
15 provide for and in connection with the temporary borrowings,  
16 the issuing officials are authorized in the name and on  
17 behalf of the Commonwealth to enter into any purchase, loan  
18 or credit agreement or agreements or other agreement or  
19 agreements with any banks or trust companies or other lending  
20 institutions, investment banking firms or persons in the  
21 United States having power to enter into the same, which  
22 agreements may contain provisions not inconsistent with the  
23 provisions of this act as may be authorized by the issuing  
24 officials.

25           (2) All temporary borrowings made under the  
26 authorization of this section shall be evidenced by notes of  
27 the Commonwealth which shall be issued from time to time for  
28 amounts not exceeding in the aggregate the applicable  
29 statutory and constitutional debt limitation in the form and  
30 in the denominations and subject to terms and conditions of

1 sale and issue, prepayment or redemption and maturity, rate  
2 or rates of interest and time of payment of interest as the  
3 issuing officials shall authorize and direct and in  
4 accordance with this act. The authorization and direction may  
5 provide for the subsequent issuance of replacement notes to  
6 refund outstanding notes or replacement notes, which  
7 replacement notes, shall, upon issuance thereof, evidence the  
8 borrowing and may specify other terms and conditions with  
9 respect to the notes and replacement notes thereby authorized  
10 for issuance as the issuing officials may determine and  
11 direct.

12 (3) When the authorization and direction of the issuing  
13 officials provide for the issuance of replacement notes, the  
14 issuing officials are hereby authorized in the name and on  
15 behalf of the Commonwealth to issue, enter into or authorize  
16 and direct the State Treasurer to enter into agreements with  
17 any banks, trust companies, investment banking firms or other  
18 institutions or persons in the United States having the power  
19 to enter the same:

20 (i) To purchase or underwrite an issue or series of  
21 issues or notes.

22 (ii) To credit, to enter into any purchase, loan or  
23 credit agreement, to draw moneys pursuant to any such  
24 agreements on the terms and conditions set forth therein  
25 and to issue notes as evidence of borrowings made under  
26 any such agreements.

27 (iii) To appoint as issuing and payment agent or  
28 agents with respect to notes.

29 (iv) To do such other acts as may be necessary or  
30 appropriate to provide for the payment, when due, of the

1 interest on and the principal of such notes. Such  
2 agreements may provide for the compensation of any  
3 purchasers or underwriters of notes or replacement notes  
4 by discounting the purchase price of the notes or by  
5 payment of a fixed fee or commission at the time of  
6 issuance thereof, and all other costs and expenses,  
7 including fees for agreements related to the notes,  
8 issuing and paying agent costs and costs and expenses of  
9 issuance, may be paid from the proceeds of the notes.

10 (4) When the authorization and direction of the issuing  
11 officials provide for the issuance of replacement notes, the  
12 State Treasurer shall, at or prior to the time of delivery of  
13 these notes or replacement notes, determine the principal  
14 amounts, dates of issue, interest rate or rates or procedures  
15 for establishing such rates from time to time, rates of  
16 discount, denominations and all other terms and conditions  
17 relating to the issuance and shall perform all acts and  
18 things necessary to pay or cause to be paid, when due, all  
19 principal of and interest on the notes being refunded by  
20 replacement notes and to assure that the same may draw upon  
21 any moneys available for that purpose pursuant to any  
22 purchase, loan or credit agreements established with respect  
23 thereto, all subject to the authorization and direction of  
24 the issuing officials.

25 (5) Outstanding notes evidencing such borrowings may be  
26 funded and retired by the issuance and sale of the bonds of  
27 the Commonwealth as authorized in subsection (f). The  
28 refunding bonds must be issued and sold not later than a date  
29 three years after the date of issuance of the first notes  
30 evidencing the borrowings to the extent that payment of such

1 notes has not otherwise been made or provided for by sources  
2 other than proceeds of replacement notes.

3 (6) The proceeds of all such temporary borrowing shall  
4 be paid to the State Treasurer to be held and disposed of in  
5 accordance with this act.

6 (f) Debt retirement--

7 (1) All bonds issued under the authority of this act  
8 shall be redeemed at maturity, together with all interest due  
9 from time to time on the bonds, and these principal and  
10 interest payments shall be paid from the Pennsylvania  
11 Infrastructure Bond Sinking Fund, which is created. For the  
12 specific purpose of redeeming the bonds at maturity and  
13 paying all interest thereon in accordance with the  
14 information received from the Governor, the General Assembly  
15 shall appropriate moneys to the Pennsylvania Infrastructure  
16 Bond Sinking Fund for the payment of interest on the bonds  
17 and notes and the principal thereof at maturity. All moneys  
18 paid into the Pennsylvania Infrastructure Bond Sinking Fund  
19 and all of the moneys not necessary to pay accruing interest  
20 shall be invested by the State Treasurer in such securities  
21 as are provided by law for the investment of the sinking  
22 funds of the Commonwealth.

23 (2) The State Treasurer, with the approval of the  
24 Governor, is authorized at any time to use any of the moneys  
25 in the fund not necessary for the purposes of the referendum  
26 authorizing the indebtedness necessary to carry out this act,  
27 for the purchase and retirement of all or any part of the  
28 bonds and notes issued pursuant to the authorization of this  
29 act. In the event that all or part of the bonds and notes are  
30 purchased, they shall be canceled and returned to the loan

1 and transfer agent as canceled and paid bonds and notes, and  
2 thereafter, all payments of interest thereon shall cease. The  
3 canceled bonds, notes and coupons, together with any other  
4 canceled bonds, notes and coupons, shall be destroyed as  
5 promptly as possible after cancellation but not later than  
6 two years after cancellation. A certification evidencing the  
7 destruction of the canceled bonds, notes and coupons shall be  
8 provided by the loan and transfer agent to the issuing  
9 officials. All canceled bonds, notes and coupons shall be so  
10 marked as to make the canceled bonds, notes and coupons  
11 nonnegotiable.

12 (3) The State Treasurer shall determine and report to  
13 the Secretary of the Budget by November 1 of each year the  
14 amount of money necessary for the payment of interest on  
15 outstanding obligations and the principal of the obligations,  
16 if any, for the following fiscal year and the times and  
17 amounts of the payments. It shall be the duty of the Governor  
18 to include in every budget submitted to the General Assembly  
19 full information relating to the issuance of bonds and notes  
20 under this act and the status of the Pennsylvania  
21 Infrastructure Bond Sinking Fund for the payment of interest  
22 on the bonds and notes and the principal thereof at maturity.

23 (4) The General Assembly shall appropriate an amount  
24 equal to the sum as may be necessary to meet repayment  
25 obligations for principal and interest for deposit into the  
26 Pennsylvania Infrastructure Bond Sinking Fund.

27 (g) Expiration.--Authorization to issue bonds and notes, not  
28 including refunding bonds and replacement notes, for the  
29 purposes of this act shall expire ten years from the effective  
30 date of this section.

1 Section 9. Powers and duties of board.

2 (a) General rule.--The board shall implement and administer  
3 the proceeds of the bond under section 8 in conformity with the  
4 provisions of section 10 of the act of March 1, 1988 (P.L.82,  
5 No.16), known as the Pennsylvania Infrastructure Investment  
6 Authority Act.

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

9 (1) Implement and administer the proceeds of the bonds  
10 under section 8 to improve the adequacy or efficiency of all  
11 Pennsylvania infrastructure.

12 (2) Develop forms for the applications of grants and  
13 loans.

14 (3) Promulgate regulations to implement this act.

15 (4) Provide for the implementation of a commercial paper  
16 program and the issuance of bonds, notes or other obligations  
17 in groups or individually in a manner consistent with the  
18 requirements of section 7 of the Pennsylvania Infrastructure  
19 Investment Authority Act. Bonds issued under the program  
20 established under this paragraph shall not be required to be  
21 sold at public sale.

22 (5) Take all other actions necessary to implement and  
23 administer the provisions of this act.

24 Section 10. Effective date.

25 This act shall take effect immediately.