
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1719 Session of
2011

INTRODUCED BY CREIGHTON, BROOKS, CALTAGIRONE, CARROLL, CLYMER,
DAVIS, GEIST, GIBBONS, GINGRICH, GROVE, HELM, KNOWLES,
MILLER, MOUL AND MUSTIO, JUNE 23, 2011

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JUNE 23, 2011

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in municipal authorities, further
3 providing for purposes and powers.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 5607(d)(23) and (30) of Title 53 of the
7 Pennsylvania Consolidated Statutes are amended to read:

8 § 5607. Purposes and powers.

9 * * *

10 (d) Powers.--Every authority may exercise all powers
11 necessary or convenient for the carrying out of the purposes set
12 forth in this section, including, but without limiting the
13 generality of the foregoing, the following rights and powers:

14 * * *

15 (23) To require the posting of financial security to
16 insure the completion in accordance with the approved plat
17 and with the rules and regulations of the authority of any
18 water mains or sanitary sewer lines, or both, and related

1 apparatus and facilities required to be installed by or on
2 behalf of a developer under an approved land development or
3 subdivision plat as these terms are defined under the act of
4 July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
5 Municipalities Planning Code. If financial security is
6 required by the authority and without limitation as to other
7 types of financial security which the authority may approve,
8 which approval shall not be unreasonably withheld, federally
9 chartered or Commonwealth-chartered lending institution
10 irrevocable letters of credit and restrictive or escrow
11 accounts in these lending institutions shall be deemed
12 acceptable financial security. Financial security shall be
13 posted with a bonding company or federally chartered or
14 Commonwealth-chartered lending institution chosen by the
15 party posting the financial security if the bonding company
16 or lending institution is authorized to conduct business
17 within this Commonwealth. The bond or other security shall
18 provide for and secure to the authority the completion of
19 required improvements within one year from the date of
20 posting of the security. The amount of financial security
21 shall be equal to 110% of the cost of the required
22 improvements for which financial security is to be posted.
23 The cost of required improvements shall be established by
24 submitting to the authority a bona fide bid from a contractor
25 chosen by the party posting the financial security. In the
26 absence of a bona fide bid, the cost shall be established by
27 an estimate prepared by the authority's engineer. If the
28 party posting the financial security requires more than one
29 year from the date of posting the financial security to
30 complete the required improvements, the amount of financial

1 security may be increased by an additional 10% for each one-
2 year period beyond the first anniversary date from the
3 initial posting date or to 110% of the cost of completing the
4 required improvements as reestablished on or about the
5 expiration of the preceding one-year period by using the
6 above bidding procedure. As the work of installing the
7 required improvements proceeds, the party posting the
8 financial security may request the authority to release or
9 authorize the release of, from time to time, portions of the
10 financial security necessary to pay the contractor performing
11 the work. Release requests shall be in writing addressed to
12 the authority, and the authority shall have 45 days after
13 receiving a request to ascertain from the authority engineer,
14 certified in writing, that the portion of the work has been
15 completed in accordance with the approved plat. Upon
16 receiving written certification, the authority shall
17 authorize release by the bonding company or lending
18 institution of an amount estimated by the authority engineer
19 to fairly represent the value of the improvements completed.
20 If the authority fails to act within the 45-day period, it
21 shall be deemed to have approved the requested release of
22 funds. [The authority may, prior to final release at the time
23 of completion and certification by its engineer, require
24 retention of 10% of the estimated cost of improvements.] If
25 the authority accepts dedication of all or some of the
26 required improvements following completion, it may require
27 the posting of financial security to secure structural
28 integrity of the dedicated improvements as well as the
29 functioning of the improvements in accordance with the design
30 and specifications as depicted on the final plat and the

1 authority's rules and regulations. This financial security
2 shall expire not later than 18 months from the date of
3 acceptance of dedication and shall be of the same type as set
4 forth in this paragraph with regard to that which is required
5 for installation of the improvements, except that it shall
6 not exceed 15% of the actual cost of installation of the
7 improvements. Any inconsistent ordinance, resolution or
8 statute is null and void.

9 * * *

10 (30) Where a sewer or water system of an authority is to
11 be extended at the expense of the owner of properties or
12 where the authority otherwise would construct customer
13 facilities referred to in paragraph (24), other than water
14 meter installation, a property owner shall have the right to
15 construct the extension or install the customer facilities
16 himself or through a subcontractor approved by the authority,
17 which approval shall not be unreasonably withheld. The
18 authority shall have the right, at its option, to perform the
19 construction itself only if the authority provides the
20 extension or customer facilities at a lower cost and within
21 the same timetable specified or proposed by the property
22 owner or his approved subcontractor. Construction by the
23 property owner shall be in accordance with an agreement for
24 the extension of the authority's system and plans and
25 specifications approved by the authority and shall be
26 undertaken only pursuant to the existing regulations,
27 requirements, rules and standards of the authority applicable
28 to such construction. Construction shall be subject to
29 inspection by an inspector authorized to approve similar
30 construction and employed by the authority during

1 construction. When a main is to be extended at the expense of
2 the owner of properties, the property owner may be required
3 to deposit with the authority, in advance of construction,
4 the authority's estimated reasonable and necessary cost of
5 reviewing plans, construction inspections, administrative,
6 legal and engineering services. The authority may require
7 that construction shall not commence until the property owner
8 has posted appropriate financial security in accordance with
9 paragraph (23). The authority may require the property owner
10 to reimburse it for reasonable and necessary expenses it
11 incurred as a result of the extension. If an independent firm
12 is employed for engineering review of the plans and the
13 inspection of improvements, reimbursement for its services
14 shall be reasonable and in accordance with the ordinary and
15 customary fees charged by the independent firm for work
16 performed for similar services in the community. If the
17 authority requires the property owner to reimburse it for
18 fees for engineering review of the plans and the inspection
19 of the improvements, the authority shall designate by
20 resolution a minimum of three approved engineers from
21 different firms who are readily available to provide services
22 in the municipality, and the property owner may select an
23 engineer from this list who shall be the authority's engineer
24 for reviewing the plans or inspecting the improvements for
25 that particular project. If the property owner selects an
26 engineer, only the review and inspection fees by the selected
27 engineer may be charged to the property owner. The fees shall
28 not exceed the rate or cost charged by the independent firm
29 to the authority when fees are not reimbursed or otherwise
30 imposed on applicants. Upon completion of construction, the

1 property owner shall dedicate and the authority shall accept
2 the extension of the authority's system if dedication of
3 facilities and the installation complies with the plans,
4 specifications, regulations of the authority and the
5 agreement. An authority may provide in its regulations those
6 facilities which, having been constructed at the expense of
7 the owner of properties, the authority will require to be
8 dedicated and which facility or facilities the authority will
9 accept as a part of its system.

10 (i) In the event the property owner disputes the
11 amount of any billing in connection with the review of
12 plans, construction inspections, administrative, legal
13 and engineering services, the property owner shall,
14 within [20 working] 180 days of the date of billing,
15 notify the authority and the authority's professional
16 consultant that the billing is disputed as excessive,
17 unreasonable or unnecessary, in which case the authority
18 shall not delay or disapprove any application or any
19 approval or permit related to the extension or facilities
20 due to the property owner's dispute over the disputed
21 billings unless the property owner has failed to make
22 payment in accordance with the decision rendered under
23 clause (iii) within [30] 180 days after the mailing date
24 of such decision.

25 (ii) If, within [30] 180 days from the date of
26 billing, the [authority] professional consultant and the
27 property owner cannot agree on the amount of billings
28 which are reasonable and necessary, the property owner
29 [and authority] shall have the right to request the
30 appointment of another professional consultant to serve

1 as arbitrator. The property owner and the professional
2 consultant whose fees are being challenged shall, by
3 mutual agreement, appoint a professional of the same
4 profession or discipline licensed in Pennsylvania to
5 review the billings and make a determination as to the
6 amount of billings which is reasonable and necessary.

7 (iii) The professional appointed under clause (ii)
8 shall hear evidence and review the documentation as the
9 professional in his or her sole opinion deems necessary
10 and shall render a decision within [60] 50 days of the
11 [billing] date of appointment. [The property owner shall
12 be required to pay the entire amount determined in the
13 decision immediately.] Based upon the decision of the
14 arbitrator, the property owner, professional consultant
15 or authority shall be required to pay any amounts
16 necessary to implement the decision within 60 days. In
17 the event the authority has paid the professional
18 consultant an amount in excess of the amount determined
19 to be reasonable and necessary, the professional
20 consultant shall within 60 days reimburse the excess
21 payment.

22 (iv) In the event that the authority and property
23 owner cannot agree upon the professional to be appointed
24 within [30] 20 days of the [billing date] request for
25 appointment of an arbitrator, the president judge of the
26 court of common pleas of the judicial district in which
27 the municipality is located, or if at the time there is
28 no president judge, the senior active judge then sitting
29 upon application of either party shall appoint a
30 professional, who shall be neither the authority engineer

1 nor any professional who has been retained by or
2 performed services for the authority or the property
3 owner within the preceding five years.

4 (v) The fee of the [appointed professional for
5 determining the reasonable and necessary expenses]
6 arbitrator shall be paid by the [applicant] property
7 owner if the [amount of payment required in the decision
8 is equal to or greater than the original bill] disputed
9 fee is sustained by the arbitrator. If the amount of
10 payment required in the decision is less than the
11 original bill by \$2,500 or more, the [authority] party
12 charging the disputed fee shall pay the fee of the
13 [professional] arbitrator. If the amount of the payment
14 required in the decision is less than the original bill
15 by \$2,499 or less, the [authority] party charging the
16 disputed fee and the property owner shall each pay one-
17 half of the fee of the [appointed professional]
18 arbitrator.

19 * * *

20 Section 2. This act shall take effect in 60 days.