
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1266 Session of
2011

INTRODUCED BY GORDNER, BAKER, BLAKE, YAW, YUDICHAK, PILEGGI,
COSTA, ARGALL, BOSCOLA, ERICKSON, FARNESE, FONTANA,
GREENLEAF, PIPPY, MENSCH, RAFFERTY, SCHWANK, SMUCKER,
TARTAGLIONE, BREWSTER, DINNIMAN, FERLO, HUGHES, KASUNIC,
KITCHEN, LEACH, SOLOBAY, STACK, WASHINGTON, WILLIAMS AND
WOZNIAK, SEPTEMBER 28, 2011

REFERRED TO APPROPRIATIONS, SEPTEMBER 28, 2011

AN ACT

1 Implementing the provisions of clause (1) of subsection (a) of
2 section 7 of Article VIII of the Constitution of the
3 Commonwealth of Pennsylvania authorizing the incurring of
4 debt for the rehabilitation of areas affected by Hurricane
5 Irene and Tropical Storm Lee; imposing duties upon the
6 Governor, the Auditor General and the State Treasurer;
7 prescribing the procedures for the issuance, sale and payment
8 of general obligations bonds, the funding of debt and
9 refunding of bonds; exempting said bonds from State and local
10 taxation; creating certain funds; providing for allocation of
11 proceeds and for a legislative disaster oversight committee;
12 and making appropriations.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Borrowing of money authorized.

16 Pursuant to the provisions of clause (1) of subsection (a) of
17 section 7 of Article VIII of the Constitution of Pennsylvania,
18 the Commonwealth is hereby authorized and directed to borrow
19 from time to time money not exceeding in the aggregate the sum
20 of \$250,000,000, not including money borrowed to refund
21 outstanding bonds, notes or replacement notes, as may be found

1 necessary to carry out the rehabilitation of areas affected by
2 Hurricane Irene and Tropical Storm Lee.

3 Section 2. General obligation bonds authorized.

4 The indebtedness herein authorized shall be incurred from
5 time to time and shall be evidenced by one or more series of
6 general obligation bonds or notes of the Commonwealth in such
7 aggregate principal amount for each series as the Governor,
8 Auditor General and State Treasurer shall determine, but the
9 latest stated maturity date shall not exceed 20 years from the
10 date of the bond first issued for each such series.

11 Section 3. Disposition and use of proceeds.

12 (a) Deposit.--The proceeds from the sale of bonds and notes,
13 except refunding bonds and replacement notes, issued pursuant to
14 the provisions of this act shall be paid to the State Treasurer
15 and be held in a separate fund to be known as the Disaster
16 Relief Fund.

17 (b) Dedication of funds.--The moneys in the Disaster Relief
18 Fund are hereby specifically dedicated to meeting the costs of
19 the rehabilitation of areas affected by Hurricane Irene and
20 Tropical Storm Lee, including, but not limited to, public
21 assistance and disaster mitigation as defined in or authorized
22 by The Robert T. Stafford Disaster Relief and Emergency
23 Assistance Act (Public Law 93-288, 88 Stat. 143) and paying the
24 costs and expenses of issuing bonds and notes.

25 (c) Interest earnings.--Pending their application to the
26 purposes authorized, moneys held or deposited by the State
27 Treasurer may be invested and reinvested as are other funds in
28 the custody of the State Treasurer in the manner provided by
29 law. All earnings received from the investment or deposit of
30 such funds shall be paid into the State Treasury to the credit

1 of the Disaster Relief Fund.

2 (d) Allocation of proceeds.--Subject to the total limit of
3 \$250,000,000, the funds authorized to be borrowed by section 1
4 shall be allocated as follows:

5 (1) No more than \$237,500,000 of the funds authorized to
6 be borrowed under this act shall be used to provide for the
7 State's share of all public assistance costs, including costs
8 for highways and bridges, except State-designated highways
9 and bridges, and disaster mitigation costs provided by the
10 Federal Government under The Robert T. Stafford Disaster
11 Relief and Emergency Assistance Act (Public Law 93-288, 88
12 Stat. 143).

13 (2) (i) No more than 5% of the funds borrowed under
14 this act shall be used for the cost of the following
15 projects pursuant to the disaster proclamation:

16 (A) Public assistance projects for the
17 rehabilitation, construction, reconstruction, repair,
18 other than normal maintenance, or the replacement of
19 any public facility of a political subdivision in
20 counties declared as disaster areas which are not
21 funded by the Federal Government or which are funded
22 by the Federal Government at a level insufficient to
23 meet current codes and standards.

24 (B) Public assistance projects for the
25 rehabilitation, construction, reconstruction, repair,
26 other than normal maintenance, or the replacement of
27 any nonprofit facility owned and operated by a
28 nonprofit organization in counties declared as
29 disaster areas which are not funded by the Federal
30 Government or which are funded at a level

1 insufficient to meet current codes and standards.

2 (C) Public assistance projects for the
3 rehabilitation, construction, reconstruction, repair,
4 other than normal maintenance, or the replacement of
5 a public facility or nonprofit facility in counties
6 not declared as disaster areas by the Federal
7 Government.

8 (D) Hazard mitigation projects in counties not
9 declared as disaster areas by the Federal Government.

10 (ii) If the funding for projects under this
11 paragraph is insufficient to provide assistance for all
12 eligible projects, the Commonwealth shall prioritize
13 projects by considering the following factors:

14 (A) The severity of disaster-related damages to
15 be rectified by the project.

16 (B) Whether the project will improve the health,
17 safety and welfare of the affected population.

18 (C) Whether the project will lead to an
19 effective solution to the problem to be addressed.

20 (D) The consistency of the project with other
21 State and regional resource management and economic
22 development plans.

23 (E) The financial condition of the applicant,
24 including revenues, expenses, debt structure, equity
25 position and available collateral.

26 (F) The economic and financial condition of the
27 community to be served, including the tax base,
28 annual budget and percentage of low-income and
29 moderate-income residents.

30 (G) The inability of the applicant to secure

1 funding from other sources.

2 (iii) Any remaining funds under this paragraph shall
3 be transferred to the Pennsylvania Infrastructure
4 Investment Authority established under the act of March
5 1, 1988 (P.L.82, No.16), known as the Pennsylvania
6 Infrastructure Investment Authority Act, to provide funds
7 for authority projects which were damaged by Hurricane
8 Irene and Tropical Storm Lee.

9 (iv) No project shall receive more than \$250,000 of
10 the total funds available under this paragraph, except as
11 defined in section 14(b)(2).

12 (v) No project shall be funded under subparagraph
13 (i)(A) or (B) unless the Commonwealth determines that
14 there was an adequate appeal of the denial of Federal
15 funding or of the inadequate level of Federal funding.

16 (e) Transfer of unused funds.--Moneys in the Disaster Relief
17 Fund not necessary to pay unexpired contracts or to pay
18 potential legal obligations shall be transferred by the State
19 Treasurer, with the approval of the Governor, to the Disaster
20 Relief Redemption Fund and shall be used to pay debt service on
21 the existing disaster relief bonds.

22 Section 4. Issuance of bonds; interest; maturity.

23 (a) Series and issues.--When bonds are issued from time to
24 time, the bonds of each issue shall constitute a separate series
25 to be designated by the issuing officials or may be combined for
26 sale as one series with other general obligation bonds of the
27 Commonwealth. Each series of bonds shall bear such rate or rates
28 of interest as may be determined by the issuing officials. The
29 bonds shall be issued in such denominations and in such form or
30 forms, whether coupon or registered as to both principal and

1 interest, and with or without such provisions for
2 interchangeability as the issuing officials may determine. In
3 case interest coupons are attached, they shall contain the
4 facsimile signature of the State Treasurer.

5 (b) Terms.--Except as otherwise set forth in this act, the
6 terms and conditions of issue, redemption and maturity and time
7 of payment of interest shall be as the issuing officials shall
8 specify. The issuing officials shall provide for the
9 amortization of the bonds in substantial and regular amounts
10 over the term of the debt. The first retirement of principal
11 shall be stated to mature prior to the expiration of a period of
12 time equal to one-tenth of the time from the date of the first
13 obligation issued to evidence the debt to the date of the
14 expiration of the term of the debt. Retirements of principal
15 shall be regular and substantial if made in annual or semiannual
16 amounts whether by stated serial maturities or by mandatory
17 sinking fund retirements computed in accordance with either a
18 level annual debt service plan, as nearly as may be, or upon the
19 equal annual maturities plan. The issuing officials are hereby
20 authorized to carry out the provisions of this act relating to
21 the issuance of bonds and shall determine all matters in
22 connection with the bonds subject to the provisions of this act.

23 (c) Signatures.--All bonds issued under the authority of
24 this act shall bear the facsimile signatures of the issuing
25 officials and a facsimile of the Great Seal of the Commonwealth
26 of Pennsylvania and shall be countersigned by a duly authorized
27 officer of a duly authorized loan and transfer agent of the
28 Commonwealth.

29 Section 5. Direct obligations; exemption from taxation; means
30 of payment.

1 All bonds issued in accordance with this act shall be direct
2 obligations of the Commonwealth, and the full faith and credit
3 of the Commonwealth are hereby pledged for the payment of the
4 interest on the bonds as the interest becomes due and the
5 payment of the principal of the bonds at maturity. All bonds
6 issued under the provisions of this act shall be exempt from
7 taxation for State and local purposes, except as provided under
8 Article XXIX of the act of March 4, 1971 (P.L.6, No.2), known as
9 the Tax Reform Code of 1971. The principal of and interest on
10 the bonds shall be payable in lawful money of the United States.
11 Section 6. Sale of bonds.

12 (a) Requirements.--Whenever bonds are issued in accordance
13 with this act, they shall be offered for sale at not less than
14 98% of the principal amount of the bonds and accrued interest
15 and shall be sold by the issuing officials to the highest and
16 best bidder or bidders after public advertisement on such terms
17 and conditions and upon such open competitive bidding as the
18 issuing officials shall direct. The manner and times of
19 advertising shall be prescribed by the issuing officials.

20 (b) Private sale.--Any portion of a bond issue so offered
21 and not sold or subscribed for may be disposed of by private
22 sale by the issuing officials in such manner and at such prices,
23 not less than 98% of the principal amount of the bonds and
24 accrued interest, as the Governor shall direct. No commission
25 may be allowed or paid for the sale of any bonds issued under
26 the authority of this act.

27 (c) Temporary bonds.--Until permanent bonds can be prepared,
28 the issuing officials may in their discretion issue in lieu of
29 the permanent bonds, temporary bonds in such form and with such
30 privileges as to registration and exchange for permanent bonds

1 as may be determined by the issuing officials.

2 Section 7. Temporary financing authorization.

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

19 (b) Evidence of debt.--All temporary borrowings made under
20 the authorization of this section shall be evidenced by notes of
21 the Commonwealth, which shall be issued from time to time for
22 amounts not exceeding in the aggregate the applicable statutory
23 and constitutional debt limitation, in a form and in
24 denominations and subject to terms and condition of sale and
25 issue, prepayment or redemption and maturity, rate or rates of
26 interest and time of payment of interest that the issuing
27 officials authorize and direct and in accordance with this act.
28 The authorization and direction may provide for the subsequent
29 issuance of replacement notes to refund outstanding notes or
30 replacement notes, which replacement notes shall, upon issuance,

1 evidence the borrowing, and may specify other terms and
2 conditions with respect to the notes and replacement notes
3 thereby authorized for issuance that the issuing officials may
4 determine and direct.

5 (c) Replacement notes.--When the authorization and direction
6 of the issuing officials provide for the issuance of replacement
7 notes, the issuing officials are hereby authorized in the name
8 and on behalf of the Commonwealth to issue, enter into or
9 authorize and direct the State Treasurer to enter into
10 agreements with any banks, trust companies, investment banking
11 firms or other institutions or persons in the United States
12 having the power to enter the same:

13 (1) To purchase or underwrite an issue or series of
14 issues of notes.

15 (2) To credit, to enter into purchase, loan or credit
16 agreements, to draw moneys pursuant to the agreement on the
17 terms and conditions set forth in the agreement and to issue
18 notes as evidence of borrowings made under the agreement.

19 (3) To appoint an issuing and paying agent or agents
20 with respect to notes.

21 (4) To do such other acts as may be necessary or
22 appropriate to provide for the payment, when due, of the
23 interest on and the principal of the notes.

24 An agreement may provide for the compensation of any purchasers
25 or underwriters of notes or replacement notes by discounting the
26 purchase price of the notes or by payment of a fixed fee or
27 commission at the time of issuance of the notes, and all other
28 costs and expenses, including fees for agreements related to the
29 notes, issuing and paying agent costs and costs and expenses of
30 issuance, may be paid from the proceeds of the notes.

1 (d) Duties of State Treasurer.--When the authorization and
2 direction of the issuing officials provide for the issuance of
3 replacement notes, the State Treasurer shall, at or prior to the
4 time of delivery of these notes or replacement notes, determine
5 the principal amounts, dates of issue, interest rate or rates or
6 procedures for establishing interest rates from time to time,
7 rates of discount, denominations and all other terms and
8 conditions relating to the issuance and shall perform all acts
9 and things necessary to pay or cause to be paid, when due, all
10 principal of and interest on the notes being refunded by
11 replacement notes and to assure that the replacement notes may
12 draw upon any moneys available for that purpose pursuant to any
13 purchase, loan or credit agreements established with respect to
14 the replacement notes, all subject to the authorization and
15 direction of the issuing officials.

16 (e) Retirement of outstanding notes.--Outstanding notes
17 evidencing the borrowings may be funded and retired by the
18 issuance and sale of the bonds of the Commonwealth as authorized
19 under this act. The refunding bonds must be issued and sold not
20 later than a date three years after the date of issuance of the
21 first notes evidencing the borrowings to the extent that payment
22 of the notes has not otherwise been made or provided for by
23 sources other than proceeds of replacement notes.

24 (f) Disposition of proceeds.--The proceeds of all the
25 temporary borrowing shall be paid to the State Treasurer to be
26 held and disposed of in accordance with this act.

27 Section 8. Disaster Relief Redemption Fund.

28 (a) Establishment.--All bonds issued under the authority of
29 this act shall be paid at maturity and all interest due from
30 time to time on the bonds and on all notes issued under this act

1 shall be paid from the Disaster Relief Redemption Fund. The
2 General Assembly shall appropriate annually the moneys necessary
3 to pay the interest on the bonds and notes and the principal of
4 the bonds and notes at maturity for which other provision is not
5 made. All moneys so appropriated shall be paid into the Disaster
6 Relief Redemption Fund by the State Treasurer. All of the moneys
7 so received prior to the date for disbursement of the moneys
8 shall be invested by the State Treasurer pending disbursement in
9 such securities as are provided by law for the investment of
10 surplus moneys of the Commonwealth.

11 (b) Use of fund.--The investment of the moneys and the
12 accumulations on the moneys in the Disaster Relief Redemption
13 Fund shall be devoted to and be used exclusively for the payment
14 of the interest accruing on the bonds and notes and for the
15 redemption of the bonds and notes at maturity or upon the
16 redemption date, if called for prior redemption. The State
17 Treasurer, with the approval of the Governor, is authorized at
18 any time to use any of those funds for the purchase and
19 retirement of all or any part of the bonds issued under this
20 act. No purchase may be made that will reduce the moneys in the
21 Disaster Relief Redemption Fund below the amount necessary to
22 pay all principal and interest still to become due in the fiscal
23 year of the purchase. In the event that all or any part of the
24 bonds shall be purchased by the Commonwealth, they shall be
25 canceled and returned to the State Treasurer as canceled and
26 paid bonds and thereafter all payments of interest on the bonds
27 shall cease and the canceled bonds and coupons shall be
28 destroyed as promptly as possible after cancellation but not
29 later than two years after cancellation. A certificate
30 evidencing the destruction of the canceled bonds, notes and

1 coupons shall be provided by the loan and transfer agent to the
2 issuing officials. All canceled bonds, notes and coupons shall
3 be so mutilated as to make the canceled bonds, notes and coupons
4 nonnegotiable.

5 Section 9. Refunding bonds.

6 The issuing officials are authorized to provide by resolution
7 for the issuance of refunding bonds for the purpose of refunding
8 any debt issued under this act and then outstanding, either by
9 voluntary exchange with the holders of the outstanding debt or
10 to provide funds to redeem and retire the outstanding debt with
11 accrued interest, any premium payable thereon and the costs of
12 issuance and retirement of the debt, at maturity or at any call
13 date. The issuance of the refunding bonds, the maturities and
14 other details of the refunding bonds, the rights of the holders
15 of the refunding bonds and the duties of the issuing officials
16 in respect to the refunding bonds shall be governed by the
17 provisions of this section insofar as they may be applicable.

18 Refunding bonds that are not subject to the aggregate limitation
19 of \$250,000,000 of debt to be issued pursuant to this act may be
20 issued by the issuing officials to refund debt originally issued
21 or to refund bonds previously issued for refunding purposes.

22 Section 10. Reporting requirements.

23 The State Treasurer shall determine and report to the
24 Secretary of the Budget by November of each year the amount of
25 money necessary for the payment of interest on outstanding
26 obligations and the principal of the obligations, if any, for
27 the following fiscal year and the times and amounts of those
28 payments.

29 Section 11. Registration of bonds.

30 The Auditor General shall prepare the necessary registry

1 books to be kept in the office of the duly authorized loan and
2 transfer agent of the Commonwealth for the registration of any
3 bonds of the Commonwealth at the request of the owner of the
4 bonds according to the terms and conditions of issue specified
5 by the issuing officials. All bonds that are issued without
6 interest coupons attached shall be registered in the registry
7 books kept by the duly authorized loan and transfer agent of the
8 Commonwealth.

9 Section 12. Voting requirements.

10 Whenever in this act any action is to be taken or decision
11 made by the issuing officials, and the three officers shall not
12 be able to agree unanimously, the action or decision of the
13 Governor and either the Auditor General or State Treasurer shall
14 be binding and final.

15 Section 13. Appropriation.

16 (a) Appropriation to Governor.--The net proceeds, less the
17 costs and expenses of issuing the obligations, of the sale of
18 the \$250,000,000 of obligations authorized under this act are
19 hereby appropriated from the Disaster Relief Fund to the
20 Governor for allocation by the Secretary of the Budget as
21 provided in section 3(d) to the Pennsylvania Emergency
22 Management Agency for public assistance to non-State and other
23 eligible entities and to the Pennsylvania Emergency Management
24 Agency and to other State agencies for public assistance costs
25 incurred by those agencies and to the Department of
26 Environmental Protection or other State agencies as deemed
27 appropriate for hazard mitigation.

28 (b) Appropriation to State Treasurer.--There is hereby
29 appropriated to the State Treasurer from the fund as much money
30 as may be necessary for all costs and expenses in connection

1 with the issue of and sale and registration of the bonds and
2 notes in connection with this act and the payment of interest
3 arbitrage rebates on proceeds of the bonds and notes.

4 Section 14. State and local participation levels.

5 (a) Public assistance.--The required non-Federal
6 contribution of 25% necessary to secure Federal public
7 assistance funding, including costs for highways and bridges,
8 except State-designated highways and bridges, shall be divided
9 between the State and the affected local political subdivision
10 or nonprofit organization where applicable. The State share will
11 be 22% and the political subdivision or nonprofit organization
12 share will be 3%.

13 (b) Additional public assistance.--The State contribution to
14 any political subdivision or nonprofit organization seeking
15 additional public assistance for projects qualifying under
16 section 3(d)(2)(i) shall be as follows:

17 (1) If the project is located in a county that was
18 declared as a disaster area by the Federal Government and the
19 project is not eligible for Federal funding or receives
20 funding at an inadequate level, the Commonwealth shall
21 contribute 22% of the amount not eligible for Federal
22 funding, and the political subdivision or nonprofit
23 organization shall contribute 78% of the amount not eligible
24 for Federal funding.

25 (2) If the project is located in a county that was not
26 declared as a disaster area by the Federal Government and the
27 project would have been eligible for Federal funding if
28 located in a county declared as a disaster area by the
29 Federal Government, the Commonwealth shall contribute 22% of
30 the cost of the project, and the political subdivision or

1 nonprofit organization shall contribute 78% of the cost of
2 the project.

3 (3) If the project is located in a county that was not
4 declared as a disaster area by the Federal Government and the
5 project would not have been eligible for Federal funding or
6 would have received funding at an inadequate level if located
7 in a county declared as a disaster area by the Federal
8 Government, the Commonwealth shall contribute 22% of the
9 amount not eligible for Federal funding, and the political
10 subdivision or nonprofit organization shall contribute 78% of
11 the amount not eligible for Federal funding.

12 (c) Local waiver.--The Commonwealth may reduce the share of
13 an affected political subdivision if the tax base of that
14 political subdivision was substantially reduced as a direct
15 result of Hurricane Irene and Tropical Storm Lee or if payment
16 of the local share exceeds 40% of the most recently adopted
17 annual budget of the political subdivision. The Commonwealth may
18 require the adoption of appropriate flood control or storm water
19 management plans as a condition of the waiver if the adoption of
20 the plan does not present additional financial hardship.

21 (d) Definition.--As used in this act, the term "political
22 subdivision" means any county, city, borough, incorporated town,
23 township, school district, vocational school district, county
24 institution district or municipal authority.

25 Section 15. Legislative Disaster Oversight Committee.

26 (a) Establishment.--There is hereby created a special
27 legislative committee to be known as the Legislative Disaster
28 Oversight Committee that shall be composed of the following:

29 (1) The Majority Leader of the Senate.

30 (2) The Majority Leader of the House of Representatives.

1 (3) The Minority Leader of the Senate.

2 (4) The Minority Leader of the House of Representatives.

3 (5) The Executive Director of the Pennsylvania Emergency
4 Management Agency.

5 (b) Powers and duties.--The Legislative Disaster Oversight
6 Committee may recommend policies for implementation of this act
7 to the Pennsylvania Emergency Management Agency and may inquire
8 into delays and issues related to distribution of public
9 assistance and other grants authorized under this act.

10 Section 16. Constitutional construction.

11 The provisions of this act shall be severable and, if any of
12 the provisions thereof shall be held unconstitutional, such
13 decisions shall not affect the validity of any of the remaining
14 provisions of this act. It is hereby declared as the legislative
15 intent that this act would have been adopted had such
16 unconstitutional provisions not been included therein.

17 Section 17. Effective date.

18 This act shall take effect immediately.