

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 381 Session of 2015

INTRODUCED BY YUDICHAK, TEPLITZ, FONTANA, ARGALL, VULAKOVICH,
HUGHES, COSTA, BREWSTER, STEFANO, SMITH, SCHWANK, BOSCOLA,
WHITE AND RAFFERTY, FEBRUARY 3, 2015

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 3, 2015

AN ACT

1 Amending the act of July 9, 2008 (P.L.915, No.64), entitled "An
2 act authorizing the incurring of indebtedness, with the
3 approval of the electors, of \$400,000,000 for the
4 acquisition, repair, construction, reconstruction,
5 rehabilitation, extension, expansion and improvement of water
6 supply and sewage treatment systems; and providing for the
7 powers and duties of the Pennsylvania Infrastructure
8 Investment Authority," further providing for legislative
9 findings; authorizing the incurring of indebtedness, with the
10 approval of the electors, of \$600,000,000 for water supply
11 and sewage treatment systems; providing for the powers and
12 duties of the Pennsylvania Infrastructure Investment
13 Authority and for authorization and expiration; and making
14 editorial changes.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The act of July 9, 2008 (P.L.915, No.64), known
18 as the Water and Sewer Systems Assistance Act, is amended by
19 adding a chapter heading to read:

CHAPTER 1

PRELIMINARY PROVISIONS

22 Section 2. Section 1 of the act is renumbered to read:

23 Section [1] 101. Short title.

1 This act shall be known and may be cited as the Water and
2 Sewer Systems Assistance Act.

3 Section 3. Section 2 of the act is renumbered and amended by
4 adding paragraphs to read:

5 Section [2] 102. Legislative findings.

6 The General Assembly finds and declares as follows:

7 * * *

8 (9) According to the Environmental Protection Agency,
9 this Commonwealth has a 20-year need in excess of
10 \$32,000,000,000 investment in drinking water and wastewater
11 treatment systems.

12 (10) In 2008, the General Assembly enacted Chapter 3 and
13 the public authorized \$400,000,000 that created jobs and
14 started to address this pressing need.

15 Section 4. Section 3 of the act is renumbered to read:

16 Section [3] 103. 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 "Authority." The Pennsylvania Infrastructure Investment
21 Authority.

22 "Board." The board of directors of the Pennsylvania
23 Infrastructure Investment Authority.

24 "Eligible cost." The cost of all labor, materials, necessary
25 operational machinery and equipment, lands, property, rights and
26 easements, plans and specifications, surveys, estimates of costs
27 and revenues, prefeasibility studies, engineering and legal
28 services and all other expenses necessary or incident to the
29 acquisition, construction, improvement, expansion, extension,
30 repair or rehabilitation of all or part of a project.

1 "Grant." The award and distribution of funds for eligible
2 costs by the Pennsylvania Infrastructure Investment Authority if
3 repayment is not required.

4 "Municipality." A county, city, borough, incorporated town,
5 township, home rule municipality and any municipal authority
6 responsible for the provision of drinking water or sewage
7 treatment services to any of them.

8 "Nutrient." Nitrogen or phosphorus.

9 "Nutrient credit." The unit of compliance that corresponds
10 with a pound of reduction of a nutrient and that has been
11 approved by the Department of Environmental Protection.

12 "Project." The acquisition, construction, improvement,
13 expansion, extension, repair, rehabilitation or security
14 measures of all or part of a facility or system for:

15 (1) the collection, treatment or disposal of wastewater,
16 including industrial waste;

17 (2) the supply, treatment, storage or distribution of
18 drinking water;

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

22 (4) the reductions of nitrogen, phosphorus and sediment
23 to comply with Pennsylvania's Chesapeake Bay Tributary
24 Strategy, including the purchase or trading of nutrient
25 credits;

26 (5) the control of storm water, which may include, but
27 is not limited to, the transport, storage and the
28 infiltration of storm water;

29 (6) the best management practices to address point or
30 nonpoint source pollution associated with storm water runoff

1 or any other innovative techniques identified in the county-
2 prepared watershed plans pursuant to the act of October 4,
3 1978 (P.L.864, No.167), known as the Storm Water Management
4 Act;

5 (7) the control of nonpoint sources of pollution
6 identified in programs established under section 319 of the
7 Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C.
8 § 1329); or

9 (8) the consolidation or regionalization of two or more
10 water supply systems, sewage disposal systems or storm water
11 systems managed or operated as an integrated system,
12 regardless of whether the system is physically
13 interconnected.

14 Section 5. The act is amended by adding a chapter heading to
15 read:

16 CHAPTER 3

17 2008 AUTHORIZATION

18 Section 6. Section 4 of the act is renumbered to read:
19 Section [4] 301. Approval of debt incurrence by electors.

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

30 Section 7. Sections 5 and 6 of the act are renumbered and

1 amended to read:

2 Section [5] 302. Certification.

3 The Secretary of the Commonwealth shall certify the question
4 under section [4] 301 to the county board of elections.

5 Section [6] 303. Form of question.

6 The question under section [4] 301 shall be in substantially
7 the following form:

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

21 Section 8. Section 7 of the act is renumbered to read:

22 Section [7] 304. Election.

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

26 Section 9. Sections 8 and 9 of the act are renumbered and
27 amended to to read:

28 Section [8] 305. Proceeds.

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

1 and loans by the Pennsylvania Infrastructure Investment
2 Authority for projects.

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

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) The board shall have no power to award any grant,
18 loan or combination thereof that exceeds the following
19 monetary limits:

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

24 (ii) For a sewage treatment system that has an
25 annual average daily flow greater than 50,000,000 gallons
26 per day but less than 100,000,000 gallons per day or a
27 water system that serves a population between 100,000 and
28 300,000 people, \$35,000,000.

29 (iii) For a sewage treatment system that has an
30 annual average daily flow greater than 20,000,000 gallons

1 per day but less than 50,000,000 gallons per day or a
2 water system that serves a population between 10,000 and
3 100,000 people, \$25,000,000.

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

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

14 (vi) For a sewage treatment system that has an
15 annual average daily flow less than 1,000,000 gallons per
16 day or a water system that serves a population less than
17 500 people, \$10,000,000.

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

24 (4) Proceeds from the bond issued under this [act]
25 chapter may be used for grants or loans to assist a public
26 utility to acquire a small sewer utility or small water
27 utility as defined under 66 Pa.C.S. § 529 (relating to power
28 of commission to order acquisition of small water and sewer
29 utilities) if both of the following apply:

30 (i) The Pennsylvania Public Utility Commission has

determined that the small sewer utility or small water utility has provided unsafe, inadequate or unreasonable service.

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

(e) Construction.--Nothing in this [act] chapter shall prohibit the use of funds allocated under the provisions of this [act] chapter for projects involving the purchase or trading of nutrient credits.

Section [9] 306. Powers and duties of board.

(a) General rule.--By March 31, 2009, the board shall implement and administer the proceeds of the bond under section [8] 305 in conformity with the provisions of section 10 of the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act.

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

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

(2) Promulgate regulations to implement the provisions of this [act] chapter.

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

(4) Take all other actions necessary to implement and

administer the provisions of this [act] chapter.

Section 10. The act is amended by adding a chapter to read:

CHAPTER 5

DEBT AUTHORIZATION

Section 501. Approval of debt incurrence by electors.

The question of incurring indebtedness of \$600,000,000 for grants and loans for the cost of the labor, materials, necessary operational machinery and equipment, lands, property, rights and easements, plans and specifications, surveys, estimates of costs and revenues, prefeasibility studies, engineering and legal services and the other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project shall be submitted to the electors at the next primary, municipal or general election following the effective date of this section.

Section 502. Certification.

The Secretary of the Commonwealth shall certify the question under section 501 to the county board of elections.

Section 503. Form of question.

The question under section 501 shall be in substantially the following form:

Do you favor the incurring of indebtedness by the Commonwealth of \$600,000,000 for grants and loans to municipalities and public utilities for the cost of all labor, materials, necessary operational machinery and equipment, lands, property, rights and easements, plans and specifications, surveys, estimates of costs and revenues, prefeasibility studies, engineering and legal services and the other expenses necessary or incident to the acquisition, construction, improvement, expansion,

extension, repair or rehabilitation of all or part of
drinking water system, storm water, nonpoint source
projects, nutrient credits and wastewater treatment
system projects?

Section 504. Election.

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

Section 505. Proceeds.

(a) Use.--Proceeds of borrowing shall be deposited in a
special fund in the State Treasury and shall be used for grants
and loans by the authority for projects.

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

(c) Borrowing authorized.--Pursuant to section 7(a)(3) of
Article VIII of the Constitution of Pennsylvania, the issuing
officials are authorized and directed to borrow, on the credit
of the Commonwealth, money not exceeding in the aggregate
\$600,000,000 in increments of not more than \$200,000,000 every
year over a three-year period after the effective date of this
section.

(d) Grant limitations.--

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

(2) The board does not have the power to award a grant,
loan or combination thereof that exceeds the following
monetary limits:

(i) For a sewage treatment system that has an annual

1 average daily flow greater than 100,000,000 gallons per
2 day or a water system that serves a population greater
3 than 300,000 people, \$50,000,000.

4 (ii) For a sewage treatment system that has an
5 annual average daily flow greater than 50,000,000 gallons
6 per day but less than 100,000,000 gallons per day or a
7 water system that serves a population between 100,000 and
8 300,000 people, \$35,000,000.

9 (iii) For a sewage treatment system that has an
10 annual average daily flow greater than 20,000,000 gallons
11 per day but less than 50,000,000 gallons per day or a
12 water system that serves a population between 10,000 and
13 100,000 people, \$25,000,000.

14 (iv) For a sewage treatment system that has an
15 annual average daily flow greater than 10,000,000 gallons
16 per day but less than 20,000,000 gallons per day or a
17 water system that serves a population between 3,301 and
18 10,000 people, \$20,000,000.

19 (v) For a sewage treatment system that has an annual
20 average daily flow greater than 1,000,000 gallons per day
21 but less than 10,000,000 gallons per day or a water
22 system that serves a population between 501 and 3,300
23 people, \$15,000,000.

24 (vi) For a sewage treatment system that has an
25 annual average daily flow less than 1,000,000 gallons per
26 day or a water system that serves a population less than
27 500 people, \$10,000,000.

28 (3) Notwithstanding the provisions of paragraph (2), the
29 board, by a vote of at least nine members, may authorize a
30 grant in excess of the limits established in paragraph (2) to

1 comprehensive projects providing or proposing consolidated
2 service to a region encompassing all or parts of two or more
3 municipalities.

4 (4) Proceeds from the bond issued under this chapter may
5 be used for grants or loans to assist a public utility to
6 acquire a small sewer utility or small water utility as
7 defined under 66 Pa.C.S. § 529 (relating to power of
8 commission to order acquisition of small water and sewer
9 utilities) if both of the following apply:

10 (i) The Pennsylvania Public Utility Commission has
11 determined that the small sewer utility or small water
12 utility has provided unsafe, inadequate or unreasonable
13 service.

14 (ii) The Pennsylvania Public Utility Commission has
15 assessed civil penalties against the small sewer utility
16 or small water utility.

17 (e) Construction.--This chapter does not prohibit the use of
18 funds allocated under the provisions of this chapter for
19 projects involving the purchase or trading of nutrient credits.
20 Section 506. Powers and duties of board.

21 (a) General rule.--By March 31, 2016, the board shall
22 implement and administer the proceeds of the bond under section
23 505 in conformity with the provisions of section 10 of the act
24 of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
25 Infrastructure Investment Authority Act.

26 (b) Specific powers of board.--In addition to the powers
27 under subsection (a), the board may:

28 (1) Develop forms for the applications of grants and
29 loans.

30 (2) Promulgate regulations to implement the provisions

1 of this chapter.

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

9 (4) Take all other actions necessary to implement and
10 administer the provisions of this chapter.

11 Section 507. Authorization and expiration.

12 Notwithstanding the provisions of section 1783-A of the act
13 of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,
14 the additional amount of \$600,000,000 is authorized if approved
15 by the electorate and the authorization to issue bonds and
16 notes, not including refunding bonds and notes for the purpose
17 of this chapter shall expire ten years from the effective date
18 of this section.

19 Section 11. The act is amended by adding a chapter heading
20 to read:

21 CHAPTER 20

22 MISCELLANEOUS PROVISIONS

23 Section 12. The act is amended by adding a section to read:
24 Section 2001. (Reserved).

25 Section 13. Section 10 of the act is renumbered to read:
26 Section [10] 2002. Effective date.

27 This act shall take effect immediately.

28 Section 14. This act shall take effect immediately.