

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1490 Session of 2017

INTRODUCED BY TURZAI, READSHAW, CALTAGIRONE, D. COSTA, P. COSTA, DEASY, ENGLISH, EVANKOVICH, KAUFFMAN, KORTZ, KULIK, MILLARD, MUSTIO, ORTITAY, QUIGLEY, WARD, WHEELAND, MAHER, DeLUCA, MICCARELLI AND PASHINSKI, JUNE 2, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 25, 2017

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
 2 Consolidated Statutes, IN RATES AND DISTRIBUTION SYSTEMS, <--  
 3 FURTHER PROVIDING FOR RATES TO BE JUST AND REASONABLE; AND  
 4 providing for water and sewer authorities in cities of the  
 5 second class.

6 The General Assembly of the Commonwealth of Pennsylvania  
 7 hereby enacts as follows:

8 ~~Section 1. Title 66 of the Pennsylvania Consolidated~~ <--  
 9 ~~Statutes is amended by adding a chapter to read:~~

10 SECTION 1. SECTION 1301 OF TITLE 66 OF THE PENNSYLVANIA <--

11 CONSOLIDATED STATUTES IS AMENDED TO READ:

12 § 1301. RATES TO BE JUST AND REASONABLE.

13 (A) REGULATION.--EVERY RATE MADE, DEMANDED, OR RECEIVED BY  
 14 ANY PUBLIC UTILITY, OR BY ANY TWO OR MORE PUBLIC UTILITIES  
 15 JOINTLY, SHALL BE JUST AND REASONABLE, AND IN CONFORMITY WITH  
 16 REGULATIONS OR ORDERS OF THE COMMISSION. ONLY PUBLIC UTILITY  
 17 SERVICE BEING FURNISHED OR RENDERED BY A MUNICIPAL CORPORATION,  
 18 OR BY THE OPERATING AGENCIES OF ANY MUNICIPAL CORPORATION,

1 BEYOND ITS CORPORATE LIMITS, SHALL BE SUBJECT TO REGULATION AND  
2 CONTROL BY THE COMMISSION AS TO RATES, WITH THE SAME FORCE, AND  
3 IN LIKE MANNER, AS IF SUCH SERVICE WERE RENDERED BY A PUBLIC  
4 UTILITY.

5 (B) MUNICIPAL CORPORATIONS.--IN DETERMINING A JUST AND  
6 REASONABLE RATE FURNISHED OR RENDERED BY A MUNICIPAL CORPORATION  
7 OR BY THE OPERATING AGENCIES OF A MUNICIPAL CORPORATION  
8 PROVIDING PUBLIC UTILITY WATER OR WASTEWATER SERVICE BEYOND ITS  
9 CORPORATE LIMITS, THE COMMISSION SHALL EMPLOY AN IMPUTED CAPITAL  
10 STRUCTURE OF COMPARABLE PUBLIC UTILITIES PROVIDING WATER OR  
11 WASTEWATER SERVICE.

12 SECTION 2. TITLE 66 IS AMENDED BY ADDING A CHAPTER TO READ:

13 CHAPTER 32  
14 WATER AND SEWER AUTHORITIES  
15 IN CITIES OF THE  
16 SECOND CLASS

17 Sec.

18 3201. Definitions.

19 3202. Application of provisions of title.

20 3203. Prior tariffs.

21 3204. Tariff filing and compliance plan.

22 3205. Maintenance, repair and replacement of facilities and  
23 equipment.

24 3206. Duties of Office of Consumer Advocate and Office of Small  
25 Business Advocate.

26 3207. Commission assessment.

27 3208. Power of authority.

28 3209. Proprietary information of authority.

29 § 3201. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Authority." A body politic or corporate established by a  
4 city of the second class, EXCEPT A JOINT AUTHORITY ESTABLISHED <--  
5 BY A CITY OF THE SECOND CLASS AND A COUNTY OF THE SECOND CLASS,  
6 under 53 Pa.C.S. Ch. 56 (relating to municipal authorities),  
7 under the former act of June 28, 1935 (P.L.463, No.191), known  
8 as the Municipality Authorities Act of one thousand nine hundred  
9 and thirty-five, or under the former act of May 2, 1945  
10 (P.L.382, No.164), known as the Municipality Authorities Act of  
11 1945, which owns or operates equipment or facilities for any of  
12 the following purposes:

13 (1) Diverting, developing, pumping, impounding,  
14 distributing or furnishing water to customers for  
15 compensation.

16 (2) Wastewater collection, CONVEYANCE, treatment or <--  
17 disposal to customers for compensation.

18 (3) STORM WATER COLLECTION, CONVEYANCE, TREATMENT AND <--  
19 DISPOSAL.

20 § 3202. Application of provisions of title.

21 (a) Application.--The following apply:

22 (1) Beginning on ~~January~~ APRIL 1, 2018, UNLESS OTHERWISE <--  
23 PROVIDED IN THIS CHAPTER, the provisions of this title,  
24 except Chapters 11 (relating to certificates of public  
25 convenience) and 21 (relating to relations with affiliated  
26 interests), shall apply to an authority in the same manner as  
27 a public utility.

28 (2) Notwithstanding paragraph (1), section 1103 shall  
29 apply to an authority that seeks to acquire, construct or  
30 begin to operate any equipment, plant or other facility for

1 the rendering of service beyond the areas served as of the  
2 effective date of this section.

3 (b) Exception.--Upon request of an authority, the commission  
4 may suspend or waive the applicability of any provision of this  
5 title to the authority, except for this section.

6 § 3203. Prior tariffs.

7 (a) Service.--An authority shall continue to provide service  
8 to the authority's customers in accordance with a prior tariff  
9 until the effective date of a commission's order approving a new  
10 tariff. If the effective date of a commission's order approving  
11 a new tariff has been stayed by a court of competent  
12 jurisdiction, the prior tariff shall remain in effect until the  
13 stay has been dissolved.

14 (b) Disputes or conflicts.--In accordance with section 3208  
15 (relating to power of authority), the commission shall resolve  
16 all disputes or conflicts arising under a prior tariff.

17 (c) Definition.--As used in this section, the term "prior  
18 tariff" shall mean the tariff, rate schedule and riders  
19 incorporated into the tariff, including the ~~bylaws~~, terms and <--  
20 conditions or other documents setting forth the rates and terms  
21 and conditions of service provided by an authority on the date  
22 the commission assumes jurisdiction over the authority.

23 § 3204. Tariff filing and compliance plan.

24 (a) Filing.--An authority shall file a tariff and supporting  
25 data with the commission within ~~60~~ 90 days of the effective date <--  
26 of this section. The commission shall conduct a rate proceeding  
27 in accordance with the commission's procedures for tariff  
28 filings. To the extent practical, public hearings on the tariff  
29 filing shall be held within the boundaries of an authority.

30 (b) Compliance plan.--Within ~~120~~ 180 days of the effective <--

1 date of this section, an authority shall file a compliance plan  
2 with the commission which shall include provisions to bring an  
3 authority's existing information technology, accounting,  
4 billing, collection and other operating systems and procedures  
5 into compliance with the requirements applicable to  
6 jurisdictional water and wastewater utilities under this title  
7 and applicable rules, regulations and orders of the commission.  
8 The compliance plan shall also include a long-term  
9 infrastructure improvement plan in accordance with Subchapter B  
10 of Chapter 13 (relating to distribution systems).

11 (c) Commission review.--The commission shall review the  
12 compliance plan filed by an authority under subsection (b) and  
13 may order the authority to file a new or revised compliance plan  
14 if the compliance plan fails to adequately ensure and maintain  
15 the provision of adequate, efficient, safe, reliable and  
16 reasonable service.

17 § 3205. Maintenance, repair and replacement of facilities and  
18 equipment.

19 (a) Authorization.--The commission may require an authority  
20 to maintain, repair and replace facilities and equipment used to  
21 provide services under this chapter to ensure that the equipment  
22 and facilities comply with section 1501 (relating to character  
23 of service and facilities).

24 (b) Petition.--An authority may petition the commission for  
25 the establishment of a distribution system improvement charge.  
26 An authority which establishes a distribution system improvement  
27 charge shall comply with all applicable requirements of  
28 Subchapter B of Chapter 13 (relating to distribution systems).

29 § 3206. Duties of Office of Consumer Advocate and Office of  
30 Small Business Advocate.

1 (a) Office of Consumer Advocate.--The Office of Consumer  
2 Advocate shall represent the interests of consumers as a party,  
3 or otherwise participate for the purpose of representing the  
4 interests of consumers, in any matter properly before the  
5 commission relating to an authority.

6 (b) Office of Small Business Advocate.--The Office of Small  
7 Business Advocate shall represent the interests of consumers as  
8 a party, or otherwise participate for the purpose of  
9 representing the interests of small business consumers, in any  
10 matter properly before the commission relating to an authority.

11 (c) Authorization.--In addition to any other powers  
12 conferred upon the Office of Consumer Advocate or Office of  
13 Small Business Advocate, the Office of Consumer Advocate or  
14 Office of Small Business Advocate may represent an interest of  
15 consumers presented to it for consideration, in writing, by a  
16 substantial number of individuals who make, direct, use or are  
17 the recipients of a product or service provided by an authority.  
18 § 3207. Commission assessment.

19 (a) Sworn statement.--In order to allow the commission to  
20 carry out the commission's duties under this chapter, the  
21 ~~president~~ CHAIRPERSON, VICE CHAIRPERSON OR EXECUTIVE DIRECTOR of <--  
22 an authority shall file, within ~~60~~ 30 days of the effective date <--  
23 of this section and on or before March 31 of each year  
24 thereafter, a sworn statement which specifies the authority's  
25 gross intrastate revenues for the immediately preceding ~~fiscal~~ <--  
26 CALENDAR year in the same manner as required under section <--  
27 510(b) (relating to assessment for regulatory expenses upon  
28 public utilities).

29 (b) Billing.--The commission shall make an estimate based on  
30 the gross intrastate revenues specified under subsection (a) in

1 accordance with the procedures set forth in section 510(b) and  
2 shall impose an assessment on an authority based on the  
3 authority's proportional share of the commission's expenses  
4 relating to the commission's utility group in accordance with  
5 section 510(b). An authority shall pay an assessment on an  
6 annual basis in accordance with section 510.

7 § 3208. Power of authority.

8 (a) Power.--Nothing in this chapter shall be construed to  
9 rescind or limit the power of a city of the second class to  
10 establish an authority OR DETERMINE THE POWERS AND FUNCTIONS OF <--  
11 AN AUTHORITY.

12 (b) Audits.--Nothing in this chapter shall be construed to  
13 limit or prevent a city official of a city of the second class  
14 from conducting audits and examinations of the financial affairs  
15 of an authority in accordance with the city official's duties.

16 (C) SECURITIES OF AUTHORITY.--NOTWITHSTANDING ANY PROVISION <--  
17 IN THIS TITLE TO THE CONTRARY:

18 (1) THE COMMISSION SHALL PERMIT AN AUTHORITY TO IMPOSE,  
19 CHARGE OR COLLECT RATES OR CHARGES AS NECESSARY TO PERMIT THE  
20 AUTHORITY TO COMPLY WITH ITS COVENANTS TO THE HOLDERS OF ANY  
21 BONDS OR OTHER FINANCIAL OBLIGATIONS.

22 (2) THE COMMISSION MAY NOT REQUIRE AN AUTHORITY TO TAKE  
23 ACTION OR OMIT TAKING ANY ACTION UNDER THIS TITLE IF THE  
24 ACTION OR OMISSION WOULD HAVE THE EFFECT OF CAUSING THE  
25 INTEREST ON TAX-EXEMPT BONDS OR OTHER FINANCIAL OBLIGATIONS  
26 ISSUED BY THE AUTHORITY TO BE INCLUDABLE IN THE GROSS INCOME  
27 OF THE HOLDERS OF THE BONDS OR OTHER FINANCIAL OBLIGATIONS  
28 FOR FEDERAL INCOME TAX PURPOSES.

29 (3) AN AUTHORITY MAY CONTINUE TO ISSUE BONDS OR OTHER  
30 FINANCIAL OBLIGATIONS ON BEHALF OF THE AUTHORITY UNDER 53

1 PA.C.S. CH. 56 (RELATING TO MUNICIPAL AUTHORITIES), AND AS  
2 OTHERWISE PROVIDED BY LAW.

3 § 3209. Proprietary information of authority.

4 Proprietary information, trade secrets and competitively  
5 sensitive information of an authority shall not be public  
6 records under the act of February 14, 2008 (P.L.6, No.3), known  
7 as the Right-to-Know Law, and shall not be subject to mandatory  
8 public disclosure. Nothing in this chapter shall be construed to  
9 exempt an authority from providing information to the commission  
10 as specified under sections 501 (relating to general powers),  
11 504 (relating to reports by public utilities), 505 (relating to  
12 duty to furnish information to commission; cooperation in  
13 valuing property) and 506 (relating to inspection of facilities  
14 and records) or any other provision of this title which requires  
15 information to be provided to the commission.

16 Section 2 3. All acts or parts of acts are repealed insofar <--  
17 as they are inconsistent with this act.

18 Section 3 4. This act shall take effect ~~as follows:~~ <--

19 ~~(1) The addition of 66 Pa.C.S. § 3207 shall take effect~~  
20 ~~in 60 days.~~

21 ~~(2) The remainder of this act shall take effect~~  
22 immediately.