
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 394 Session of
2017

INTRODUCED BY YUDICHAK, BREWSTER, FONTANA, COSTA, STEFANO,
MCGARRIGLE, HUGHES, RAFFERTY AND BOSCOLA, FEBRUARY 16, 2017

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 16, 2017

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, for certification, for form of question, for
10 proceeds and for powers and duties of board; authorizing the
11 incurring of indebtedness, with the approval of the electors,
12 of \$600,000,000 for water supply and sewage treatment
13 systems; providing for the powers and duties of the
14 Pennsylvania Infrastructure Investment Authority and for
15 authorization and expiration; and making editorial changes.

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

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

21 CHAPTER 1

22 PRELIMINARY PROVISIONS

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

24 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 to
4 read:

5 Section [2] 102. Legislative findings.

6 The General Assembly finds and declares as follows:

7 (1) Pennsylvania has an estimated 2,200 drinking water
8 systems and 1,060 wastewater systems.

9 (2) Drinking water and wastewater treatment systems
10 protect public health and the environment and are responsible
11 for cleaning and treating waters of this Commonwealth.

12 (3) Changing Federal and State regulations relative to
13 the treatment of drinking water and wastewater are creating
14 financial problems for drinking water and wastewater
15 treatment systems.

16 (4) Many of the drinking water and wastewater treatment
17 systems must manage aging infrastructure, and the maintenance
18 and replacement costs are estimated to be in excess of
19 \$18,000,000,000.

20 (5) According to the Environmental Protection Agency,
21 Pennsylvania ranks seventh in infrastructure financing needs
22 for water infrastructure.

23 (6) Additional funding sources are needed if
24 Pennsylvania is to have a sustainable water infrastructure in
25 the future.

26 (7) The Governor signed executive order 2008-02,
27 creating a water infrastructure task force to ensure that
28 Pennsylvania maintains a sustainable drinking water and
29 wastewater infrastructure.

30 (8) It is beyond the financial means of local ratepayers

1 to fund all the improvements that are needed for a
2 sustainable drinking water and wastewater infrastructure.

3 (9) According to the Environmental Protection Agency,
4 this Commonwealth has a 20-year need in excess of
5 \$32,000,000,000 investment in drinking water and wastewater
6 treatment systems.

7 (10) In 2008, the General Assembly enacted provisions
8 under this act and the public authorized \$400,000,000, which
9 created jobs and started to address this pressing need.

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

11 Section [3] 103. Definitions.

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

15 "Authority." The Pennsylvania Infrastructure Investment
16 Authority.

17 "Board." The board of directors of the Pennsylvania
18 Infrastructure Investment Authority.

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

26 "Grant." The award and distribution of funds for eligible
27 costs by the Pennsylvania Infrastructure Investment Authority if
28 repayment is not required.

29 "Municipality." A county, city, borough, incorporated town,
30 township, home rule municipality and any municipal authority

1 responsible for the provision of drinking water or sewage
2 treatment services to any of them.

3 "Nutrient." Nitrogen or phosphorus.

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

7 "Project." The acquisition, construction, improvement,
8 expansion, extension, repair, rehabilitation or security
9 measures of all or part of a facility or system for:

10 (1) the collection, treatment or disposal of wastewater,
11 including industrial waste;

12 (2) the supply, treatment, storage or distribution of
13 drinking water;

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

17 (4) the reductions of nitrogen, phosphorus and sediment
18 to comply with Pennsylvania's Chesapeake Bay Tributary
19 Strategy, including the purchase or trading of nutrient
20 credits;

21 (5) the control of storm water, which may include, but
22 is not limited to, the transport, storage and the
23 infiltration of storm water;

24 (6) the best management practices to address point or
25 nonpoint source pollution associated with storm water runoff
26 or any other innovative techniques identified in the county-
27 prepared watershed plans pursuant to the act of October 4,
28 1978 (P.L.864, No.167), known as the Storm Water Management
29 Act;

30 (7) the control of nonpoint sources of pollution

1 identified in programs established under section 319 of the
2 Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C.
3 § 1329); or

4 (8) the consolidation or regionalization of two or more
5 water supply systems, sewage disposal systems or storm water
6 systems managed or operated as an integrated system,
7 regardless of whether the system is physically
8 interconnected.

9 Section 5. The act is amended by adding a chapter heading to
10 read:

11 CHAPTER 3

12 2008 AUTHORIZATION

13 Section 6. Section 4 of the act is renumbered to read:

14 Section [4] 301. Approval of debt incurrence by electors.

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

25 Section 7. Sections 5 and 6 of the act are renumbered and
26 amended to read:

27 Section [5] 302. Certification.

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

30 Section [6] 303. Form of question.

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

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

16 Section 8. Section 7 of the act is renumbered to read:
17 Section [7] 304. Election.

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

21 Section 9. Sections 8 and 9 of the act are renumbered and
22 amended to to read:

23 Section [8] 305. Proceeds.

24 (a) Use.--Proceeds of borrowing shall be deposited in a
25 special fund in the State Treasury and shall be used for grants
26 and loans by the Pennsylvania Infrastructure Investment
27 Authority for projects.

28 (b) Appropriation.--The proceeds of all bonds sold under
29 this [act] chapter are hereby appropriated on a continuing basis
30 to the Pennsylvania Infrastructure Investment Authority for the

1 purpose of making loans and grants under this [act] chapter.

2 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of
3 Article VIII of the Constitution of Pennsylvania, the issuing
4 officials are authorized and directed to borrow, on the credit
5 of the Commonwealth, money not exceeding in the aggregate
6 \$400,000,000 in increments of not more than \$150,000,000 every
7 year over a three-year period after the effective date of this
8 section.

9 (d) Grant limitations.--

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

12 (2) The board shall have no power to award any grant,
13 loan or combination thereof that exceeds the following
14 monetary limits:

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

19 (ii) For a sewage treatment system that has an
20 annual average daily flow greater than 50,000,000 gallons
21 per day but less than 100,000,000 gallons per day or a
22 water system that serves a population between 100,000 and
23 300,000 people, \$35,000,000.

24 (iii) For a sewage treatment system that has an
25 annual average daily flow greater than 20,000,000 gallons
26 per day but less than 50,000,000 gallons per day or a
27 water system that serves a population between 10,000 and
28 100,000 people, \$25,000,000.

29 (iv) For a sewage treatment system that has an
30 annual average daily flow greater than 10,000,000 gallons

1 per day but less than 20,000,000 gallons per day or a
2 water system that serves a population between 3,301 and
3 10,000 people, \$20,000,000.

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

9 (vi) For a sewage treatment system that has an
10 annual average daily flow less than 1,000,000 gallons per
11 day or a water system that serves a population less than
12 500 people, \$10,000,000.

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

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

25 (i) The Pennsylvania Public Utility Commission has
26 determined that the small sewer utility or small water
27 utility has provided unsafe, inadequate or unreasonable
28 service.

29 (ii) The Pennsylvania Public Utility Commission has
30 assessed civil penalties against the small sewer utility

1 or small water utility.

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

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

7 (a) General rule.--By March 31, 2009, the board shall
8 implement and administer the proceeds of the bond under section
9 [8] 305 in conformity with the provisions of section 10 of the
10 act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
11 Infrastructure Investment Authority Act.

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

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

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

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

25 (4) Take all other actions necessary to implement and
26 administer the provisions of this [act] chapter.

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

28 CHAPTER 5

29 DEBT AUTHORIZATION

30 Section 501. Approval of debt incurrence by electors.

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

11 Section 502. Certification.

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

14 Section 503. Form of question.

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

17 Do you favor the incurring of indebtedness by the
18 Commonwealth of \$600,000,000 for grants and loans to
19 municipalities and public utilities for the cost of all
20 labor, materials, necessary operational machinery and
21 equipment, lands, property, rights and easements, plans
22 and specifications, surveys, estimates of costs and
23 revenues, prefeasibility studies, engineering and legal
24 services and the other expenses necessary or incident to
25 the acquisition, construction, improvement, expansion,
26 extension, repair or rehabilitation of all or part of
27 drinking water system, storm water, nonpoint source
28 projects, nutrient credits and wastewater treatment
29 system projects?

30 Section 504. Election.

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

4 Section 505. Proceeds.

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

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

12 (c) Borrowing authorized.--Pursuant to section 7(a)(3) of
13 Article VIII of the Constitution of Pennsylvania, the issuing
14 officials are authorized and directed to borrow, on the credit
15 of the Commonwealth, money not exceeding in the aggregate
16 \$600,000,000 in increments of not more than \$200,000,000 every
17 year over a three-year period after the effective date of this
18 section.

19 (d) Grant limitations.--

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

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

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

29 (ii) For a sewage treatment system that has an
30 annual average daily flow greater than 50,000,000 gallons

1 per day but less than 100,000,000 gallons per day or a
2 water system that serves a population between 100,000 and
3 300,000 people, \$35,000,000.

4 (iii) For a sewage treatment system that has an
5 annual average daily flow greater than 20,000,000 gallons
6 per day but less than 50,000,000 gallons per day or a
7 water system that serves a population between 10,000 and
8 100,000 people, \$25,000,000.

9 (iv) For a sewage treatment system that has an
10 annual average daily flow greater than 10,000,000 gallons
11 per day but less than 20,000,000 gallons per day or a
12 water system that serves a population between 3,301 and
13 10,000 people, \$20,000,000.

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

19 (vi) For a sewage treatment system that has an
20 annual average daily flow less than 1,000,000 gallons per
21 day or a water system that serves a population less than
22 500 people, \$10,000,000.

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

29 (4) Proceeds from the bond issued under this chapter may
30 be used for grants or loans to assist a public utility to

1 acquire a small sewer utility or small water utility as
2 defined under 66 Pa.C.S. § 529 (relating to power of
3 commission to order acquisition of small water and sewer
4 utilities) if both of the following apply:

5 (i) The Pennsylvania Public Utility Commission has
6 determined that the small sewer utility or small water
7 utility has provided unsafe, inadequate or unreasonable
8 service.

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

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

16 (a) General rule.--By March 31, 2018, the board shall
17 implement and administer the proceeds of the bond under section
18 505 in conformity with the provisions of section 10 of the act
19 of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania
20 Infrastructure Investment Authority Act.

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

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

25 (2) Promulgate regulations to implement the provisions
26 of this chapter.

27 (3) Provide for the implementation of a commercial paper
28 program and the issuance of bonds, notes or other obligations
29 in groups or individually in a manner consistent with the
30 requirements of section 7 of the Pennsylvania Infrastructure

1 Investment Authority Act. Bonds issued under the program
2 established under this paragraph shall not be required to be
3 sold at public sale.

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

6 Section 507. Authorization and expiration.

7 Notwithstanding the provisions of section 1783-A of the act
8 of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,
9 the additional amount of \$600,000,000 is authorized if approved
10 by the electorate and the authorization to issue bonds and
11 notes, not including refunding bonds and notes for the purpose
12 of this chapter shall expire 10 years from the effective date of
13 this section.

14 Section 11. The act is amended by adding a chapter heading
15 to read:

16 CHAPTER 20

17 MISCELLANEOUS PROVISIONS

18 Section 12. The act is amended by adding a section to read:

19 Section 2001. (Reserved).

20 Section 13. Section 10 of the act is renumbered to read:

21 Section [10] 2002. Effective date.

22 This act shall take effect immediately.

23 Section 14. This act shall take effect immediately.