
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3006 Session of
2004

INTRODUCED BY LEWIS, BASTIAN, BISHOP, CALTAGIRONE, CAPPELLI,
CREIGHTON, GOODMAN, HANNA, HERSHEY, McILHATTAN, MUSTIO,
O'NEILL, PHILLIPS, PICKETT, PISTELLA, SANTONI, SATHER,
SCAVELLO, SEMMEL, SOLOBAY AND TIGUE, NOVEMBER 18, 2004

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
NOVEMBER 18, 2004

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, providing for dam and flood control
3 project loans; authorizing certain indebtedness; providing
4 for a referendum; and establishing the Dam and Flood Control
5 Project Fund and the Dam and Flood Control Project Revolving
6 Loan Fund.

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

9 Section 1. Title 27 of the Pennsylvania Consolidated
10 Statutes is amended by adding a chapter to read:

11 CHAPTER 65

12 DAM AND FLOOD CONTROL MANAGEMENT

13 Sec.

14 6501. Definitions.

15 6502. Authorization of indebtedness.

16 6503. (Reserved).

17 6504. General requirements of bonds.

18 6505. Issuing officials.

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3 6508. Recitation on bonds.
4 6509. Series of bonds.
5 6510. Sale of bonds.
6 6511. Temporary bonds.
7 6512. Dam and Flood Control Project Fund.
8 6513. Dedication of funds.
9 6514. Revolving loan fund.
10 6515. Use of revolving loan fund.
11 6516. (Reserved).
12 6517. (Reserved).
13 6518. New bonds and coupons.
14 6519. Application of accrued interest.
15 6520. Maturity of bonds.
16 6521. Referendum.
17 § 6501. Definitions.

18 The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Bonds." The bonds authorized to be issued or issued under
22 this chapter.

23 "Cost." The expenses incurred in connection with:

24 (1) The funding of dam restoration and repair projects
25 and flood control projects.

26 (2) The interest or discount on bonds.

27 (3) The issuance of bonds.

28 (4) The procurement or provision of engineering,
29 inspection, relocation, legal, financial, planning,
30 geological, hydrological and other professional services,

1 estimates and advice, including the services of a bond
2 registrar or an authenticating agent.

3 (5) The issuance of bonds or any interest or discount
4 thereon.

5 (6) The administrative, organizational, operating or
6 other expenses incident to the financing and completing of
7 any project authorized by this chapter.

8 (7) The establishment of a reserve fund or funds for
9 working capital, operating, maintenance or replacement
10 expenses and for the payment or security of principal or
11 interest on bonds.

12 (8) The cost of all labor, materials, machinery and
13 equipment, lands, property, rights and easements, financing
14 charges, interest on bonds, notes or other obligations, plans
15 and specifications, surveys or estimates of costs and
16 revenues, engineering and legal services and all other
17 expenses necessary or incident to all or part of any project
18 authorized by this chapter.

19 (9) Reimbursement to any fund of the Commonwealth of
20 moneys that may have been transferred or advanced therefrom
21 to any fund established by this chapter or of any moneys that
22 may have expended therefrom for or in connection with any
23 project authorized by this chapter.

24 (10) The administrative cost to the local government
25 unit acting as a coapplicant to owners of private dams or to
26 private lake associations.

27 "Dam restoration and repair project." The repair,
28 restoration, construction, reconstruction or demolition of dams,
29 bulkheads, retention or detention basins or other structures
30 that impound water for water supply purposes, flood control or

1 recreation, wildlife habitat or fire protection.

2 "Department." The Department of Environmental Protection of
3 the Commonwealth.

4 "Flood control project." The repair, restoration,
5 construction, reconstruction or demolition of dams, drainage
6 ways, structures and other real and personal property acquired,
7 constructed, operated, financed, maintained or improved or to be
8 acquired, constructed, operated, financed, maintained or
9 improved for the purposes of flood control, and other plants,
10 structures, boats, conveyances and other real or personal
11 property and rights therein, and appurtenances necessary for the
12 control of flooding, including the development of comprehensive
13 flood management plans.

14 "Government securities." Any bonds or other obligations that
15 as to principal and interest constitute direct obligations of or
16 are unconditionally guaranteed by the United States of America,
17 including obligations of any Federal agency, to the extent those
18 obligations are unconditionally guaranteed by the United States
19 of America, and any certificates or any other evidences of an
20 ownership interest in those obligations of or unconditionally
21 guaranteed by the United States of America or in specified
22 portions that may consist of the principal of or the interest on
23 those obligations.

24 "Local government unit." A county or a municipality, or any
25 agency, authority, board, commission or other instrumentality
26 thereof, any two or more counties or municipalities operating
27 jointly through an intergovernmental cooperation agreement
28 permitted by law or any agency, authority, board, commission or
29 other instrumentality thereof, and any other local or regional
30 entity created by the General Assembly as a political

1 subdivision of the Commonwealth, or any agency, authority, board
2 or commission or other instrumentality thereof.

3 "Secretary." The Secretary of Environmental Protection of
4 the Commonwealth.

5 § 6502. Authorization of indebtedness.

6 (a) General rule.--Bonds of the Commonwealth are authorized
7 to be issued in the aggregate principal amount of \$150,000,000
8 for the purposes of financing the costs of dam restoration and
9 repair projects and State flood control projects, as provided in
10 this chapter.

11 (b) Allocation.--Of the total principal amount authorized
12 pursuant to subsection (a):

13 (1) Fifteen million dollars is allocated to the
14 department to finance the costs of State dam restoration and
15 repair projects.

16 (2) Ninety-five million dollars is allocated to the
17 department for the purpose of providing loans or other forms
18 of assistance other than full or matching grants to owners of
19 private dams, as coapplicants with local government units or
20 to local government units that own dams to finance the cost
21 of dam restoration and repair projects undertaken by or on
22 behalf of the owners of dams.

23 (3) Twenty-five million dollars is allocated to the
24 department to finance the cost of State flood control
25 projects.

26 (c) Use of loans.--Any loan authorized under this section
27 shall include up to 100% of the cost of a dam restoration and
28 repair project.

29 (d) Loan terms.--A loan made to an owner of private dams or
30 to a local government unit that owns dams or to an owner of a

1 lake or stream with a local government unit as coapplicant from
2 the Dam and Flood Control Project Revolving Loan Fund shall bear
3 interest of not more than 2% per year, shall be for a term of 20
4 years and shall be made in accordance with criteria for other
5 programs established by the department.

6 (e) Loan agreement.--A loan authorized under this section
7 shall be provided under the terms and conditions set forth in a
8 written loan agreement between the department and the person or
9 entity receiving the loan.

10 (f) Coapplicants required.--Loans awarded under this section
11 to owners of private dams shall require local government units
12 to act as coapplicants. The cost of payment of the principal and
13 interest on any loan made to the owner of a private dam as a
14 coapplicant with a local government unit shall be assessed, in
15 the same manner as provided for the assessment of local
16 improvements generally under the law, against the real estate
17 benefited thereby in proportion to and not in excess of the
18 benefits conferred, and such assessments shall bear interest and
19 penalties from the same time and at the same rate as assessments
20 for local improvements in the municipality where they are
21 imposed, and from the date of confirmation shall be a first lien
22 upon the real estate assessed to the same extent and be enforced
23 and collected in the same manner as assessments for local
24 improvements.

25 (g) Administration.--The department shall administer the
26 program authorized pursuant to this section in accordance with
27 criteria for existing programs established under the law. The
28 department shall notify every local government unit and dam
29 owner of the availability of and the criteria for qualifying and
30 obtaining loans or other forms of assistance under the program.

1 (h) Loan payments to be deposited into fund.--Payments of
2 principal and interest on loans made from the Dam, Lake and
3 Stream Project Revolving Loan Fund shall be returned to that
4 fund for use for any authorized purpose to which moneys in the
5 fund may be used.

6 § 6503. (Reserved).

7 § 6504. General requirements of bonds.

8 The bonds authorized under this chapter shall be serial
9 bonds, term bonds or a combination thereof and shall be known as
10 Dam and Flood Control Project Bonds. They shall be issued from
11 time to time as the issuing officials shall determine and may be
12 issued in coupon form, fully registered form or book-entry form.
13 The bonds may be subject to redemption prior to maturity and
14 shall mature and be paid not later than 35 years from the
15 respective dates of their issuance.

16 § 6505. Issuing officials.

17 The Governor, State Treasurer and Auditor General or any two
18 of these officials shall carry out the provisions of this
19 chapter relating to the issuance of bonds and shall determine
20 all matters in connection therewith, subject to the provisions
21 of this chapter. If an issuing official is absent from this
22 Commonwealth or incapable of acting for any reason, the powers
23 and duties of that issuing official shall be exercised and
24 performed by the person authorized by law to act in an official
25 capacity in the place of that issuing official.

26 § 6506. Nature of bonds.

27 Bonds issued in accordance with the provisions of this
28 chapter shall be direct obligations of the Commonwealth, and the
29 faith and credit of the Commonwealth are pledged for the payment
30 of the interest and redemption premium thereon, if any, when

1 due, and for the payment of the principal at maturity or earlier
2 redemption date. The principal of and interest on the bonds
3 shall be exempt from taxation by the Commonwealth or by any
4 county, municipality or other taxing entity of the Commonwealth.

5 § 6507. Signature on bonds.

6 The bonds shall be signed in the name of the Commonwealth by
7 means of the manual or facsimile signature of the Governor under
8 the Great Seal of the Commonwealth, which seal may be by
9 facsimile or by way of any other form of reproduction on the
10 bonds, and attested by the manual or facsimile signature of the
11 Secretary of State and shall be countersigned by the facsimile
12 signature of the State Treasurer and may be manually
13 authenticated by an authenticating agent or bond registrar, as
14 the issuing official shall determine. Interest coupons, if any,
15 attached to the bonds shall be signed by the facsimile signature
16 of the State Treasurer. The bonds may be issued notwithstanding
17 that an official signing them or whose manual or facsimile
18 signature appears on the bonds or coupons has ceased to hold
19 office at the time of issuance, or at the delivery of the bonds
20 to the purchaser thereof.

21 § 6508. Recitation on bonds.

22 (a) General rule.--The bonds shall recite that they are
23 issued for the purposes set forth in this chapter, that they are
24 issued pursuant to this chapter, that this chapter was submitted
25 to the people of this Commonwealth at the general election and
26 that this chapter was approved by a majority of the legally
27 qualified voters of this Commonwealth voting thereon at the
28 election. This recital shall be conclusive evidence of the
29 authority of the Commonwealth to issue the bonds and their
30 validity. Any bonds containing this recital shall, in any suit,

1 action or proceeding involving their validity, be conclusively
2 deemed to be fully authorized by this chapter and to have been
3 issued, sold, executed and delivered in conformity with this
4 chapter and with all other provisions of law applicable to this
5 chapter and shall be incontestable for any cause.

6 (b) Form.--The bonds shall be issued in those denominations
7 and in the form or forms, whether coupon, fully registered or
8 book-entry, and with or without provisions for
9 interchangeability thereof, as may be determined by the issuing
10 officials.

11 § 6509. Series of bonds.

12 When the bonds are issued from time to time, the bonds of
13 each issue shall constitute a separate series to be designated
14 by issuing officials. Each series of bonds shall bear such rate
15 or rates of interest as may be determined by the issuing
16 officials, which interest shall be payable semiannually except
17 that the first and last interest periods may be longer or
18 shorter in order that intervening semiannual payments may be at
19 convenient dates.

20 § 6510. Sale of bonds.

21 The bonds shall be issued and sold at the price or prices and
22 under the terms, conditions and regulations as the issuing
23 officials may prescribe, after notice of the sale, published at
24 least once in at least three newspapers published in this
25 Commonwealth, and at least once in a publication carrying
26 municipal bond notices and devoted primarily to financial news,
27 published in this Commonwealth, the first notice to appear at
28 least five days prior to the day of bidding. The notice of sale
29 may contain a provision to the effect that any bid in pursuance
30 thereof may be rejected. In the event of rejection or failure to

1 receive any acceptable bid, the issuing officials, at any time
2 within 60 days from the date of the advertised sale, may sell
3 the bonds at a private sale at such price or prices under the
4 terms and conditions as the issuing officials may prescribe. The
5 issuing officials may sell all or part of the bonds of any
6 series as issued to any State fund or to the Federal Government
7 or any agency thereof, at a private sale, without advertisement.

8 § 6511. Temporary bonds.

9 Until permanent bonds are prepared, the issuing officials may
10 issue temporary bonds in the form and with those privileges as
11 to their registration and exchange for permanent bonds as may be
12 determined by the issuing officials.

13 § 6512. Dam and Flood Control Project Fund.

14 The proceeds from the sale of bonds used to provide
15 assistance other than full or matching grants to owners of dams
16 for dam restoration and repair projects and for State flood
17 control projects or State dam restoration and repair projects,
18 shall be paid to the State Treasurer and be held by the State
19 Treasurer in a separate fund, and be deposited in such
20 depositories as may be selected by the State Treasurer to the
21 credit of the fund, which fund shall be known as the Dam and
22 Flood Control Project Fund.

23 § 6513. Dedication of funds.

24 (a) General rule.--The moneys in the Dam and Flood Control
25 Project Fund are specifically dedicated and shall be applied to
26 the cost of assistance, other than full or matching grants, to
27 owners of dams, lakes or streams or private lake associations
28 for dam restoration and repair projects, and for State flood
29 control projects or State dam restoration and repair projects as
30 set forth in section 6502 (relating to authorization of

1 indebtedness). However, no moneys in the fund shall be expended
2 for those purposes except as otherwise authorized by this
3 chapter without the specific appropriation provided for in this
4 chapter. Any act appropriating moneys from the Dam and Flood
5 Control Project Fund shall identify the project to be funded by
6 the moneys.

7 (b) Transfer of moneys.--At any time prior to the issuance
8 and sale of bonds under this chapter, the State Treasurer may
9 transfer from any available moneys in any fund of the State
10 Treasury to the credit of the Dam and Flood Control Project Fund
11 those sums as the State Treasurer may deem necessary. The sums
12 so transferred shall be returned to the same fund of State
13 Treasury by the State Treasurer from the proceeds of the sale of
14 the first issue of bonds.

15 (c) Investments.--Pending their application to the purposes
16 provided in this chapter, the moneys in the Dam and Flood
17 Control Project Fund may be invested and reinvested as are other
18 trust funds in the custody of the State Treasurer, in the manner
19 provided by law. Net earnings received from the investment or
20 deposit of moneys in the Dam and Flood Control Project Fund
21 shall be paid into the General Fund.

22 § 6514. Revolving loan fund.

23 The proceeds from the sale of bonds used to provide loans to
24 owners of dams, lakes or streams for dam restoration and repair
25 projects shall be paid to the State Treasurer and be held by the
26 State Treasurer in a separate fund and be deposited in such
27 depositories as may be selected by the State Treasurer to the
28 credit of the fund, which fund shall be known as the Dam and
29 Flood Control Project Revolving Loan Fund.

30 § 6515. Use of revolving loan fund.

1 (a) General rule.--The moneys in the Dam and Flood Control
2 Project Revolving Loan Fund are specifically dedicated and shall
3 be applied to the cost of making low-interest loans to owners of
4 dams, lakes or streams for dam restoration and repair projects,
5 as set forth in section 6502 (relating to authorization of
6 indebtedness). However, no moneys in the fund shall be expended
7 for those purposes except as otherwise authorized by this
8 chapter without the specific appropriation thereof, but bonds
9 may be issued as provided in this chapter. Any act appropriating
10 moneys from the Dam and Flood Control Project Revolving Loan
11 Fund shall identify the project to be funded by the moneys.

12 (b) Term of loans.--A loan issued from the Dam and Flood
13 Control Project Revolving Loan Fund shall be for a term as
14 determined by the secretary not to exceed 20 years and at an
15 interest rate determined by the secretary not to exceed 2% per
16 year. The terms of any loan agreement shall be approved by the
17 State Treasurer. Any loan made from the Dam and Flood Control
18 Project Revolving Loan Fund shall be awarded pursuant to section
19 6502 based upon the criteria and procedures established for
20 existing programs under the law, except that no matching funds
21 shall be required of loan applicants.

22 (c) Transfer of moneys.--At any time prior to the issuance
23 and sale of bonds under this chapter the State Treasurer may
24 transfer any available moneys in any fund of the State Treasury
25 to the credit of the Dam and Flood Control Project Revolving
26 Loan Fund those sums as the State Treasurer may deem necessary.
27 The sums so transferred shall be returned to the same fund of
28 the State Treasury by the State Treasurer from the proceeds of
29 the sale of the first issue of bonds.

30 (d) Investment.--Pending their application to the purposes

1 provided in this chapter, the moneys in the Dam and Flood
2 Control Project Revolving Loan Fund may be invested and
3 reinvested as are other trust funds in the custody of the State
4 Treasurer, in the manner provided by law. All repayments of
5 loans made pursuant to this chapter and interest thereon shall
6 be deposited in the Dam and Flood Control Project Revolving Loan
7 Fund. Earnings received from moneys in the fund shall be
8 credited to the fund.

9 § 6516. (Reserved).

10 § 6517. (Reserved).

11 § 6518. New bonds and coupons.

12 If any coupon bond, coupon or registered bond is lost,
13 mutilated or destroyed, a new bond or coupon shall be executed
14 and delivered of like tenor, in substitution for the lost,
15 mutilated or destroyed bond or coupon, upon the owner furnishing
16 to the issuing officials evidence satisfactory to them of the
17 loss, mutilation or destruction of the bond or coupon, the
18 ownership thereof, and security, indemnity and reimbursement for
19 expenses connected therewith, as the issuing officials may
20 require.

21 § 6519. Application of accrued interest.

22 The accrued interest, if any, received upon the sale of the
23 bonds shall be applied to the discharge of a like amount of
24 interest upon the bonds when due. Any expense incurred by the
25 issuing officials for advertising, engraving, printing,
26 clerical, authenticating, registering, legal or other services
27 necessary to carry out the duties imposed upon them by the
28 provisions of this chapter shall be paid from the proceeds of
29 the sale of the bonds by the State Treasurer, upon the warrant
30 of the Auditor General, in the same manner as other obligations

1 of the Commonwealth are paid.

2 § 6520. Maturity of bonds.

3 Bonds of each series issued under this chapter shall mature,
4 including any sinking fund redemptions, not later than the 35th
5 year from the date of issue of that series, and in amounts as
6 shall be determined by the issuing officials. The issuing
7 officials may reserve to the Commonwealth by appropriate
8 provision in the bonds of any series the power to redeem any of
9 the bonds prior to maturity at the price or prices and upon the
10 terms and conditions as may be provided in the bonds.

11 § 6521. Referendum.

12 (a) Question.--The question of incurring indebtedness under
13 this chapter shall be submitted to the electors at the next
14 primary, municipal or general election following the effective
15 date of this section.

16 (b) Certification.--The Secretary of the Commonwealth shall
17 certify the form of the question under subsection (c) to the
18 county boards of elections.

19 (c) Form of question.--The question shall be in the
20 substantially the following form:

21 Do you favor the issuance of debt in the amount of \$
22 for the purposes of providing financing for the
23 restoration and repair of dams and providing financing
24 for flood control projects?

25 (d) Election.--The election shall be conducted at the next
26 occurring general or municipal election following the effective
27 date of this section, in accordance with the act of June 3, 1937
28 (P.L.1333, No.320), known as the Pennsylvania Election Code,
29 except that the time limits for advertisement of notice of the
30 election may be waived as to the question.

1 (e) Proceeds.--Proceeds of borrowing shall be deposited as
2 provided under this chapter.

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