

CHAPTER 75
WATER FACILITIES RESTORATION

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Enactment. Chapter 75 was added June 22, 1982, P.L.577, No.167, effective immediately.

§ 7501. Short title of chapter.

This chapter shall be known and may be cited as the "Water Facilities Restoration Act."

§ 7502. Definitions.

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

"Board." The Water Facilities Loan Board established by this chapter.

"Community water supply system." (Repealed).

"Department." (Repealed).

"Flood control facility." (Repealed).

"Issuing officials." The Governor, the Auditor General and the State Treasurer.

"Municipality." A city, borough, incorporated town, township, county or municipal authority.

"Notes." Temporary obligations issued by the Commonwealth pursuant to this chapter in anticipation of bonds, and shall include renewal notes.

"Port facility." (Repealed).

"Project." (Repealed).

"Renewal notes." Notes, the net proceeds of which are used to pay principal, accrued interest and premium, if any, of previously issued notes or renewal notes, and which evidence the same temporary borrowing of the Commonwealth as the notes or renewal notes replaced.

"Water facility." (Repealed).

(Mar. 1, 1988, P.L.82, No.16)

1988 Repeal Note. Act 16 repealed the defs. of "community water supply system," "department," "flood control facility," "port facility," "project" and "water facility." Section 20(a) of Act 16 provided that the repeal shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the

Governor was published in the Pennsylvania Bulletin on March 26, 1988, at 14 Pa.B. 1342.

§ 7503. Legislative findings and purposes (Repealed).

1988 Repeal Note. Section 7503 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7503 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7504. Water Facilities Loan Board.

(a) **Creation.**--The Water Facilities Loan Board is hereby created as a departmental administrative board in the Department of Environmental Resources.

(b) **Membership.**--(Repealed).

(c) **Quorum.**--A quorum for the conduct of business shall be at least five members of the board or their alternates.

(d) **Staff services.**--(Repealed).

(e) **Termination.**--(Repealed).

(Mar. 1, 1988, P.L.82, No.16)

1988 Repeal Note. Act 16 repealed subsecs. (b), (d) and (e). Section 20(a) of Act 16 provided that the repeal of subsecs. (b), (d) and (e) shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, at 14 Pa.B. 1342.

References in Text. The Department of Environmental Resources, referred to in subsec. (a), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

§ 7505. Powers of board.

The board shall have the power:

(1) To make and alter bylaws for the management of its affairs.

(2) To enter into contracts of all kinds and to execute all instruments necessary or convenient for carrying out its operations.

(3) To accept grants, subsidies and loans from and enter into agreements or other transactions with any Federal or Commonwealth agency.

(4) To be a party to any action in any court concerning matters affecting the board, except that no provisions of this chapter shall constitute a waiver of sovereign immunity except as provided in Chapter 85 of Title 42 (relating to matters affecting government units).

(5) To make loans for the repair, construction, reconstruction, rehabilitation, extension and improvement of community water supply systems and for the repair, reconstruction or rehabilitation of flood control facilities, dams and port facilities in accordance with the provisions of this chapter.

(6) To adopt administrative procedures relating to the processing of loan applications necessary for implementing the provisions of this chapter.

(7) To cooperate with Federal, Commonwealth and local agencies and interstate river basin commissions in order to accomplish the purposes of this chapter as expeditiously as possible.

(8) To acquire or take title by foreclosure to any real

or personal property which has been pledged as security for a loan granted by the board, and which has been defaulted, and to operate or dispose of the property in accordance with section 7517 (relating to supervision of project and security from default). All costs arising out of the foreclosure, acquisition or operation shall be paid from the Water Facilities Loan Fund. All proceeds or revenues resulting from foreclosure, acquisition or operation of the property shall be deposited in the Water Facilities Loan Fund. All proceeds or revenues resulting from the sale, lease or disposal of the property shall be deposited in the Water Facilities Loan Redemption Fund for the purchase or retirement of bonds and payment of interest and premium if any.

(9) To make reimbursement to the department or to any agency of the Commonwealth for administrative expenses incurred in the provision of services in connection with the performance of duties under this chapter.

(10) To adopt and, from time to time, amend and repeal rules and regulations to carry out the provisions of this chapter.

(11) To do all other things necessary and convenient to carry out the purposes and provisions of this chapter.

§ 7506. Water Facilities Advisory Committee (Repealed).

1988 Repeal Note. Section 7506 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7506 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7507. Borrowing authorized.

(a) **Aggregate limitation.**--Pursuant to the provisions of section 7(a)(3) of Article VIII of the Constitution of Pennsylvania and the referendum approved by the electorate on November 3, 1981, the issuing officials are authorized and directed to borrow, on the credit of the Commonwealth, bonds not exceeding in the aggregate the sum of \$300,000,000, not including refunding bonds, as may be found necessary to carry out the purposes of this chapter.

(b) **Authorization to issue notes.**--Pending the issuance of bonds of the Commonwealth as authorized in this chapter, the issuing officials are authorized in accordance with this chapter and on the credit of the Commonwealth to make temporary borrowing not to exceed three years in anticipation of the issue of bonds with the latest stated maturity date to be set forth in the notes, in order to provide funds in such amounts as may from time to time be deemed advisable to carry out the purposes of this chapter prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the issuing officials are authorized in the name and on behalf of the Commonwealth to enter into any loan or credit agreement or agreements or other agreements with any banks or trust companies or other lending institutions or persons in the United States having power to enter into them, which agreements may contain such provisions not inconsistent with the provisions of this chapter as may be customary in such instruments and as may be authorized by the issuing officials.

(c) **Issuance of notes and renewal notes.**--All temporary borrowings made under the authorization of this section shall be evidenced by notes of the Commonwealth, which shall be issued from time to time for such amounts that together with the notes outstanding and bonds issued pursuant to this chapter do not exceed \$300,000,000, in such form and in such denominations, and

subject to such terms and conditions of sale and issue, renewal, prepayment or redemption and maturity, rate or rates of interest and time of payment of interests, as the issuing officials shall direct and in accordance with this chapter. Such direction may provide for the subsequent issuance of the notes (referred to as "renewal notes") to refund the notes or renewal notes, which renewal notes shall, upon issuance thereof, evidence the borrowing, and may specify such other terms and conditions with respect to the notes and renewal notes thereby authorized for issuance as the issuing officials may determine and direct. Any issue of renewal notes may be in a principal amount sufficient to repay the principal of and accrued interest on, if any, the issue or issues of notes being refunded and to pay the financial costs relating to the renewal notes.

(d) Funding bonds.--Outstanding notes evidencing the borrowings may be funded and retired by the issuance and sale of the bonds of the Commonwealth as authorized in this chapter. The funding bonds must be issued and sold not later than a date three years after the date of the issuance of the first notes evidencing the borrowings to the extent that payment of the notes has not otherwise been made or provided for by sources other than proceeds of renewal notes.

(e) Issuance of general obligation bonds.--As evidence of the indebtedness authorized in this chapter, general obligation bonds of the Commonwealth shall be issued from time to time to fund and retire notes issued pursuant to this chapter (referred to as "funding bonds") or to provide moneys necessary to carry out the purposes of this chapter, or both, for such total amounts, in such form, in such denominations and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the issuing officials direct except that the latest stated maturity date shall not exceed 30 years from the date of the debt first issued for each series.

(f) Execution of bonds.--All bonds and notes issued under the authority of this chapter shall bear facsimile signatures of the issuing officials and a facsimile of the great seal of the Commonwealth and shall be countersigned by a duly authorized officer of a duly authorized loan and transfer agent of the Commonwealth.

(g) Direct obligation of Commonwealth.--All bonds and notes issued in accordance with the provisions of this section shall be direct obligations of the Commonwealth and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon as it becomes due and the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States of America.

(h) Exemption from taxation.--All bonds and notes issued under the provisions of this section shall be exempt from taxation for State and local purposes.

(i) Form of bonds.--The bonds may be issued as coupon bonds or registered as to both principal and interest as the issuing officials may determine. If interest coupons are attached, they shall contain the facsimile signature of the State Treasurer.

(j) Bond amortization.--The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements.

(k) Refunding bonds.--The issuing officials are authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any bonds issued under the provisions of this chapter and then outstanding, either by voluntary exchange with the holders of the outstanding bonds, or to provide funds to redeem and retire the outstanding bonds with accrued interest, any premium payable thereon and the costs of issuance and retirement of bonds, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect to the same shall be governed by the provisions of this section, insofar as they may be applicable. Refunding bonds, which are not subject to the aggregate limitation of \$300,000,000 of bonds to be issued pursuant to this chapter, may be issued by the issuing officials to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

(l) Quorum.--Whenever any action is to be taken or decision made by the Governor, the Auditor General and the State Treasurer acting as issuing officials and the three officers are not able unanimously to agree, the action or decision of the Governor and either the Auditor General or State Treasurer shall be binding and final.

§ 7508. Sale of bonds.

(a) Public sale.--Whenever bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the issuing officials to the highest and best bidder or bidders after due public advertisement on such terms and conditions and upon such open competitive bidding as the issuing officials shall direct. The manner and character of the advertisement and the time of advertising shall be prescribed by the issuing officials.

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

(c) Bond series.--When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with other general obligation bonds of the Commonwealth.

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

(e) Disposition and use of proceeds.--The proceeds realized from the sale of bonds and notes, except funding bonds, refunding bonds and renewal notes, under the provisions of this chapter shall be paid into a special fund in the State Treasury to be known as the "Water Facilities Loan Fund" and are specifically dedicated to the purposes of the referendum of November 3, 1981 as implemented by this chapter. The proceeds shall be paid by the State Treasurer periodically to those departments, agencies or authorities authorized to expend them at such times and in such amounts as may be necessary to satisfy the funding needs of the department, agency or authority. The proceeds of the sale of funding bonds, refunding bonds and renewal notes shall be paid to the State Treasurer and applied to the payment of principal of, the accrued interest and premium, if any, and costs of redemption of the bonds and notes for which such obligations shall have been issued.

(f) Investment of funds.--Pending their application to the purposes authorized, moneys held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Water Facilities Loan Redemption Fund.

(g) Registration of bonds.--The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the issuing officials.

(h) Expenses of preparation for issue and sale of bonds and notes.--There is hereby appropriated to the State Treasurer from the proceeds of the bonds and notes issued as much money as may be necessary for all costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this chapter.

§ 7509. Debt retirement.

(a) Water Facilities Loan Redemption Fund.--All bonds issued under the authority of this chapter shall be redeemed at maturity and all interest due from time to time on the bonds shall be paid from a special fund to be known as the "Water Facilities Loan Redemption Fund." For the specific purpose of redeeming the bonds at maturity and paying all interest thereon in accordance with the information received from the Governor, the General Assembly shall appropriate moneys to the Water Facilities Loan Redemption Fund for the payment of interest on the bonds and the principal thereof at maturity. All moneys paid into the Water Facilities Loan Redemption Fund and all of the moneys not necessary to pay accruing interest shall be invested by the Treasury Department in such securities as are provided by law for the investment of the sinking funds of the Commonwealth.

(b) Purchase of bonds.--The board, with the approval of the Governor, is authorized at any time to use any of the moneys in the Water Facilities Loan Fund not necessary for the purposes of the referendum of November 3, 1981 for the purchase and retirement of all or any part of the bonds and notes issued the authority of this chapter. In the event that all or any part of the bonds and notes are purchased by the board, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and coupons shall be destroyed within two years after cancellation in the presence of the issuing officials or their designees, and a certificate evidencing the destruction, satisfactory to the duly authorized loan and transfer agent of the Commonwealth shall be furnished to it. All canceled bonds, notes and coupons shall be so marked as to make the canceled bonds, notes and coupons nonnegotiable.

(c) Reporting requirements.--The State Treasurer shall determine and report to the Secretary of the Budget by November of each year the amount of money necessary for the payment of interest on outstanding obligations and the principal of the obligations, if any, for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every budget submitted to the General Assembly full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund of the Commonwealth for the payment of the interest on the bonds and notes and the principal thereof at maturity.

(d) Debt service appropriations.--The General Assembly shall appropriate an amount equal to moneys as may be necessary to meet repayment obligations for principal and interest into the

Water Facilities Loan Redemption Fund.

(e) Interest rate on loans.--In no case shall the rate of interest on any loan made pursuant to this chapter be less than the rate of interest paid by the Commonwealth on the general obligation bonds or notes issued pursuant to this chapter from which funds were obtained for the loan except when that rate of interest would exceed the maximum permissible rate of interest under the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder so as to cause the general obligation bonds issued pursuant to this chapter to be deemed arbitrage bonds pursuant to section 103(c) of the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder. In such case the rate of interest on a loan shall be equal to the maximum rate of interest calculable under the Internal Revenue Code of 1954, as amended, and regulations promulgated thereunder which will not cause the general obligation bonds and notes issued pursuant to this chapter to be deemed arbitrage bonds under the provisions of section 103(c) of the Internal Revenue Code of 1954, as amended, and all regulations promulgated thereunder. In the case of loans initially funded from the proceeds of notes and subsequently funded from renewal notes and bonds, the interest rate to be charged on the loans shall be established in accordance with the provisions of this subsection upon the sale of bonds or notes, as the case may be, for the loans.

(f) Disposition of loan repayments and interest.--All loan repayments, payments of interest on loans made by the board or proceeds shall be transmitted to the State Treasurer for deposit into the General Fund of the Commonwealth.

§ 7510. Apportionment and appropriation of funds (Repealed).

1988 Repeal Note. Section 7510 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7510 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7511. Limits on project funding (Repealed).

1988 Repeal Note. Section 7511 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7511 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7512. Costs eligible for loan financing (Repealed).

1988 Repeal Note. Section 7512 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7512 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7513. Planning consultation and prefeasibility assessments (Repealed).

1988 Repeal Note. Section 7513 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7513 shall take effect on the date that the Governor

certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7514. Application requirements and criteria for obtaining loan (Repealed).

1988 Repeal Note. Section 7514 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7514 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7515. Priorities for loans (Repealed).

1988 Repeal Note. Section 7515 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7515 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7516. Implementation of project (Repealed).

1988 Repeal Note. Section 7516 was repealed March 1, 1988, P.L.82, No.16. Section 20(a) of Act 16 provided that the repeal of section 7516 shall take effect on the date that the Governor certifies by publication in the Pennsylvania Bulletin the existence of a quorum on the Pennsylvania Infrastructure Investment Authority. The certification by the Governor was published in the Pennsylvania Bulletin on March 26, 1988, 14 Pa.B. 1342.

§ 7517. Supervision of project and security from default.

(a) Inspection of project and records.--The applicant shall allow the Water Facilities Loan Board and its successors, agents and representatives the right at all reasonable times during construction and after completion of the project to enter upon and inspect the project and to examine and make copies of the applicant's books, records, accounting data and other documents pertaining to the project and the financial condition of the applicant.

(b) Independent audits.--The applicant may be required by the board or its agent to have prepared independent audits of its financial documents and conditions and submit a certified copy of the audits to the board.

(c) Security for loan.--The loan shall be secured by agreements, mortgages or other security instruments as the board finds necessary and adequate to secure the loan. The board and its successors may use any procedure or remedy available under any other existing or future laws for the protection of creditors.

(d) Default on community water supply systems projects.--In the event of a default on repayment of a loan for a community water supply system project, the board or its successors may apply to the court of common pleas of the county where the project is located to have a receiver appointed to assume operation and supervision of the water supply system. The receiver shall collect the revenues and disburse funds to pay operating costs and loan obligations under the supervision of the court. Receivership shall continue until the default is cured and regular repayments established or the board and court

determine to reorganize the water system or sell its assets and turn over operations to another entity.

Cross References. Section 7517 is referred to in section 7505 of this title.

§ 7518. Expedited approval of rate relief.

For the limited and special purpose of ensuring repayment of principal and interest on loans made pursuant to this chapter, the Public Utility Commission shall approve such security issues, affiliated interest agreements and rate increase requests by applicants that are regulated utilities as are necessary and appropriate. For this purpose, the Public Utility Commission shall establish such expedited practices, procedures and policies as necessary to facilitate and accomplish repayment of the loans. Nothing in this chapter shall be construed as to require approval of rate increases greater than that necessary to accomplish the repayment of loans made pursuant to this chapter.