

No. 2006-28

AN ACT

HB 893

Requiring State and local approval for terminations or transfers by municipal authorities; authorizing and requiring cities, boroughs, townships, municipal authorities and public utility companies engaged in the supplying of water to shut off the supply of water for nonpayment of sewer, sewerage or sewage treatment rentals, rates or charges imposed by municipal authorities organized by counties of the second class, by cities of the second class, by cities of the second class A, by cities of the third class, by boroughs or by townships of the first or second class; authorizing and requiring them to supply to such authorities lists of metered water readings and flat-rate water bills and other data; authorizing them to act as billing and collecting agents for such authorities; conferring certain powers upon the Pennsylvania Public Utility Commission in connection therewith; requiring certain procedures to be followed in residential buildings; and making a related repeal.

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

CHAPTER 1
PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Water Services Act.

Section 102. Definitions.

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

“Act 1949-98.” The act of April 14, 1949 (P.L.482, No.98), entitled, as amended, “An act authorizing and requiring cities, boroughs, townships, municipal authorities and public utility companies engaged in the supplying of water, to shut off the supply of water for nonpayment of sewer, sewerage, or sewage treatment rentals, rates, or charges imposed by municipal authorities organized by counties of the second class, by cities of the second class, by cities of the second class A, by cities of the third class, by boroughs or by townships of the first or second class; authorizing and requiring them to supply to such authorities lists of metered water readings and flat-rate water bills and other data; authorizing them to act as billing and collecting agents for such authorities; and conferring certain powers upon the Pennsylvania Public Utility Commission in connection therewith.”

“Commission.” The Pennsylvania Public Utility Commission.

CHAPTER 3
MUNICIPAL AUTHORITY APPROVAL OF ACTIONS

Section 301. Definitions.

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

“Authority.” A body politic and corporate which meets all of the following:

(1) Is established by a city and incorporated under any of the following:

(i) The former act of June 28, 1935 (P.L.463, No.191), entitled, “An act providing, for a limited period of time, for the incorporation, as bodies corporate and politic, of ‘Authorities’ for municipalities; defining the same; prescribing the rights, powers, and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain, and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and for other purposes.”

(ii) The former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.

(iii) 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

(2) Provides water and sewer services in accordance with all of the following:

(i) The water or sewer services, or both, are provided, either by an agreement with a municipality or directly, to users who are residents of one or more municipalities outside the boundaries of the city.

(ii) The total number of residents of municipalities which are outside the boundaries of the city and in which water or sewer services, or both, are offered or provided exceeds by at least 50% the number of residents who reside within the boundaries of the city.

(3) Owns:

(i) a sewer, sewer system or parts of a sewer or sewer system or sewage treatment works; and

(ii) a waterworks, water supply works or water distribution system.

“City.” A city of the third class which has adopted a home rule charter and has a population of not more than 30,000.

“Project.” As defined in 53 Pa.C.S. § 5602 (relating to definitions).

Section 302. Approvals.

(a) Commission.—If a city intends to continue the water and sewer service previously provided by the authority to municipalities outside the city, the city must obtain approval of the commission prior to:

(1) termination of an authority;

(2) conveyance of a project of the authority to the city under 53 Pa.C.S. § 5622 (relating to conveyance by authorities to municipalities or school districts of established projects); or

(3) transfer of reserves, assets or funds from an authority to the city.

(b) Other municipalities.—

(1) A city must obtain approval from 75% of the municipalities which have service agreements with or whose residents previously received water or sewer services, or both, from the authority prior to:

(i) termination of the authority;

(ii) conveyance of a project of the authority under 53 Pa.C.S. § 5622; or

(iii) transfer of reserves, assets or funds from the authority to the city.

(2) Approval under paragraph (1) is as follows:

(i) The approval must be in the form of a resolution.

(ii) The resolution must be adopted at a public meeting by an affirmative vote of a majority of the members of the governing body of the municipality.

(iii) The result of an affirmative vote under subparagraph (ii) must be transmitted to the city within 48 hours of the vote.

Section 303. Applicability.

(a) General rule.—This chapter shall apply to any action by an authority or city to terminate, convey or transfer a water or sewer system under 53

Pa.C.S. Ch. 56 (relating to municipal authorities) which are initiated after November 1, 2005.

(b) Exception.—

(1) This chapter shall not apply to the merger of two or more authorities when the merger, including the conveyance of all projects, obligations and reserves, has been approved by each of the member municipalities and the merging authorities.

(2) For purposes of this subsection, the term “authority” shall have the same meaning as provided in 53 Pa.C.S. § 5602 (relating to definitions).

CHAPTER 5 WATER UTILITIES

Section 501. Definitions.

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

“Water utility.” The term includes a city, borough, township, municipal authority and public utility engaged in supplying water or water service.

Section 502. Termination of service.

(a) General rule.—Except as set forth in subsection (c), all of the following apply:

(1) If the owner or occupant of a premises served by a water utility neglects or fails to pay, for a period of 30 days from the due date, a rental, rate or charge for sewer, sewerage or sewage treatment service imposed by a municipality or municipal authority, the water utility shall, at the request and direction of the municipality, the authority or a city, borough or township to which the authority has assigned its claim or lien, shut off the supply of water to the premises until all overdue rentals, rates, charges and associated penalties and interest are paid.

(2) If the authority, city, borough or township also supplies water to premises, the authority, city, borough or township is authorized to shut off the supply of water to the premises.

(3) If the rental rate or charge for sewer, sewerage or sewage treatment service is imposed by a municipality as lessee of an authority and the lessee also supplies water to the premises, the municipality is authorized to shut off the supply of water to the premises without prior request from the authority or without prior assignment of its claim or lien for the service.

(b) Written notice.—Except as set forth in subsection (c), all of the following apply:

(1) In no case shall the water supply to premises be shut off until ten days after a written notice of intention to do so has been posted at a main entrance and mailed to the person liable for payment of the rentals and charges and the owner of the property or property manager.

(2) If during the ten-day period the person liable for payment of the rentals and charges delivers to the water utility authority or municipality supplying water to the premises a written statement under oath or affirmation averring that there is a just defense to all or part of the claim and that the statement was not executed for the purpose of delay, the water supply shall not be shut off until the claim has been judicially determined.

(c) Exception.—Prior to discontinuing service in a residential building as defined under the act of November 26, 1978 (P.L.1255, No.299), known as the Utility Service Tenants Rights Act, a water utility shall comply with the provisions of that act.

(d) Failure of previous lessee to pay bill.—Nothing in this section shall be construed to authorize an authority or privately owned sewer or water company to shut off or deny water service to a lessee for failure of a previous lessee to pay a water or sewer service rate, rental or charge.

Section 503. Submission of water meter readings and flat-rate water bills.

A water utility shall, at the request of an authority, supply to the authority, on or before the 15th day of the month following the month during which water bills are issued, a list of all water meter readings and flat-rate water bills issued during the preceding calendar month and the basis of each flat-rate customer's water charge for use by the authority in calculating or computing its rentals, rates or charges for furnishing sewer, sewerage or sewage treatment service to the water customers.

Section 504. Billing and collecting agent.

(a) General rule.—A water utility may act as billing and collecting agents of a municipal authority which imposes rentals, rates or charges for use of a sewer, sewerage system or sewage treatment works upon owners or occupants of premises served by the water utility. Upon request of an authority, the water utility may include with its own bills for water or water service the rentals, rates and charges for sewer, sewerage and sewage treatment service. If the water utility agrees to do so, the added rentals, rates and charges shall be set forth separately from the charges for water or water service, but both shall be payable to and collected by the water utility and payment of either may be refused unless both are paid.

(b) Accounting.—The water utility shall, at least once each calendar quarter, account for and turn over the moneys it has collected to the authority imposing the rentals, rates and charges.

Section 505. Payment for billing and collecting services.

(a) General rule.—An authority imposing sewer, sewerage or sewage treatment rentals, rates or charges shall pay to a water utility the reasonable additional clerical and other expenses incurred in providing billing and collecting services.

(b) Shut-off service.—An authority, city, borough or township requesting and directing the shutoff of water shall also pay to the water utility the cost

of the shut-off service and the estimated loss of water revenues resulting from such shutoff.

(c) Long-term agreements.—A water utility may enter into a long-term agreement with an authority for performing billing and collecting services and with an authority, city, borough or township for shut-off services. The agreement shall be binding on the utility, its successors and assigns.

(d) Disputes.—If a dispute arises between the utility and an authority, city, borough or township as to the cost of such services, the amount of revenues lost or the provisions of an agreement under this subsection, the dispute may be submitted by either party to the commission, whose decision, unless reversed on appeal, shall be final. This subsection shall not be construed to grant to the commission any other regulatory power or jurisdiction over counties, cities, boroughs, townships or authorities.

Section 506. Severability.

The provisions of this chapter are severable. If any provision is held to be unconstitutional, the decision shall not affect the validity of the remaining provisions, and it is declared as the intent of the General Assembly that this chapter would have been adopted had the unconstitutional provision not been included.

Section 507. Inconsistent repeals.

All acts and parts of acts are repealed to the extent that they are inconsistent with the provisions of this chapter.

CHAPTER 40 MISCELLANEOUS PROVISIONS

Section 4001. Repeals.

Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate Chapter 5.

(2) Act 1949-98 is repealed.

Section 4002. Continuation.

Chapter 5 is a continuation of Act 1949-98. Except as otherwise provided in Chapter 5, all activities initiated under Act 1949-98 shall continue and remain in full force and effect and may be completed under Chapter 5. Orders, regulations, rules and decisions which were made under Act 1949-98 and which are in effect on the effective date of section 4001 shall remain in full force and effect until revoked, vacated or modified under Chapter 5.

Section 4003. Effective date.

This act shall take effect immediately.

APPROVED—The 14th day of April, A.D. 2006.

EDWARD G. RENDELL