

ALERT

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Energy, Environmental and Utilities Group

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Pennsylvania Amends Municipality Authorities Act to Restrict Authority Expenditures

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On June 27, 2012, Pennsylvania Governor Tom Corbett signed into law Senate Bill 375, which had been approved by a vote of 47-0 in the Senate on June 13 and by a vote of 196-0 in the House on June 19. The bill places certain restrictions on municipal water and sewer authorities' ability to expend resources on activities not related to their core purpose. By amending Title 53 of the Pennsylvania Consolidated Statutes to add new Section 5612(a.1), the bill provides that authority funds may not be used "for any grant, loan or other expenditure for any purpose other than a service or project directly related to the mission or purpose of the authority as set forth in the articles of incorporation or in the resolution or ordinance establishing the authority." With limited exceptions, the bill additionally provides ratepayers with a cause of action in the courts of common pleas to recover improper expenditures directly from the recipient.

In addition to the limitations on water and sewer authority expenditures, the bill also contains a provision to ensure that ratepayers located in municipalities served by certain authorities are appropriately represented on the board of the authority. However, this provision is narrowly tailored and may not impact the majority of existing water and sewer authorities. Specifically, the provision applies to any water or sewer authority, incorporated by a single municipality, that serves residents in at least two counties and has projects in more than two counties where the combined population of other municipalities served is equal to or greater than five times the population of the incorporating municipality.

A "water or sewer project" is defined as any pumping station, filtering plant, impoundment facility, dam, spillway or reservoir. Affected authorities have within 90 days after the effective date of the legislation (or by November 24, 2012) to replace their existing governing bodies with bodies comprising three members appointed by the each county in which residential services are provided and three members appointed by the incorporating municipality, each member to serve a term of five years.

While the new provision regarding the composition of governing bodies is narrowly tailored, the restriction on authority expenditures is generally applicable and has the potential to significantly affect all authorities, particularly those that were incorporated to accomplish very narrow purposes (as evidenced by the authority's articles of incorporation and/or authorizing ordinance or resolution). It will be important for authorities to evaluate ongoing expenditures and reexamine their articles of incorporation or originating legislation to confirm the breadth of their mission and authorized services and projects.

To discuss any questions you may have regarding the issues discussed in this alert, or how they may apply to your particular circumstances, please contact:

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