

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1390 Session of  
2009

---

INTRODUCED BY FREEMAN, ROSS, SANTARSIERO, BELFANTI, BRENNAN,  
CLYMER, CUTLER, DALEY, GEORGE, GINGRICH, GRUCELA, HARKINS,  
HARPER, HENNESSEY, HORNAMAN, HOUGHTON, JOSEPHS, KORTZ, KOTIK,  
MANDERINO, MATZIE, MCGEEHAN, McILVAINE SMITH, MELIO, MENSCH,  
MILLER, MILNE, MURPHY, MURT, MUSTIO, PASHINSKI, PERRY,  
PRESTON, QUINN, REICHLEY, SIPTROTH, WALKO, WATSON, YOUNGBLOOD  
AND YUDICHAK, APRIL 29, 2009

---

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 29, 2009

---

AN ACT

1 Updating and expanding the storm water planning requirements to  
2 be undertaken by counties; authorizing counties to regulate  
3 storm water within a watershed-based planning area;  
4 authorizing the formation of water resources management  
5 authorities; enabling counties, municipalities and water  
6 resources management authorities to develop integrated water  
7 resources management plans; imposing duties and conferring  
8 powers on the Department of Environmental Protection, the  
9 Environmental Quality Board, counties, municipalities and  
10 water resources management authorities; providing for  
11 financing and for waiver of use for certain grant or loan  
12 funds; and making related repeals.

13 TABLE OF CONTENTS

14 Chapter 1. General Provisions  
15 Section 101. Short title.  
16 Section 102. Legislative findings.  
17 Section 103. Purpose.  
18 Section 104. Definitions.  
19 Chapter 2. Powers and Duties  
20 Section 201. Powers and duties of counties.

1 Section 202. Powers and duties of department and Environmental  
2 Quality Board.

3 Section 203. Powers and duties of municipalities.

4 Section 204. Powers and duties of water resources management  
5 authorities.

6 Chapter 3. Comprehensive Storm Water Management Planning

7 Section 301. Comprehensive storm water planning and management  
8 requirements.

9 Section 302. Review and approval or disapproval by department.

10 Section 303. Implementation of comprehensive storm water  
11 management plans.

12 Section 304. Failure to submit or implement comprehensive storm  
13 water management plan.

14 Section 305. Failure of municipalities to adopt ordinances  
15 and implement plans.

16 Chapter 4. Integrated Water Resources Management Planning  
17 and Procedure

18 Section 401. Water resources management coordination and  
19 integration.

20 Section 402. Integrated water resources management planning  
21 process.

22 Section 403. Integrated water resources management plan  
23 requirements.

24 Section 404. Implementation of integrated water resources  
25 management plans.

26 Section 405. Water resources management corridors.

27 Section 406. Failure of municipalities to adopt implementing  
28 ordinances.

29 Chapter 5. Water Resources Management Authorities

30 Section 501. Water resources management authorities.

1 Section 502. Additional powers and duties of water resources  
2 management authorities.  
3 Chapter 6. Rights, Remedies, Funding and Enforcement  
4 Section 601. Duty of persons engaged in development of land.  
5 Section 602. Funding and imposing fees on tax-exempt property.  
6 Section 603. Entry upon land for surveys and examinations.  
7 Section 604. Preservation of existing rights and remedies.  
8 Section 605. Civil remedies.  
9 Section 606. Administrative procedure and judicial review.  
10 Section 607. Integrated Water Resources Management Account.  
11 Section 608. Grants and reimbursements.  
12 Section 609. Waiver of use of grant and loan funds.  
13 Chapter 7. Miscellaneous Provisions  
14 Section 701. Repeals.  
15 Section 702. Effective date.

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

18 CHAPTER 1

19 GENERAL PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Integrated  
22 Water Resources Restoration, Protection and Management Act.

23 Section 102. Legislative findings.

24 The General Assembly finds that:

25 (1) Inadequate management of storm water runoff and the  
26 insufficient planning, coordination and integration of  
27 regulatory programs associated with water resources  
28 management activities causes increased flood flows and  
29 velocities, contributes to accelerated erosion and  
30 sedimentation, overtaxes the carrying capacity of streams and

1 storm sewers, greatly increases the cost of public facilities  
2 to carry and control storm water and wastewater, undermines  
3 flood plain management and flood control efforts in  
4 downstream communities, reduces groundwater recharge,  
5 diminishes the quality and quantity of water supplies and  
6 threatens the environment, public health, safety and  
7 property.

8 (2) The act of October 4, 1978 (P.L.864, No.167), known  
9 as the Storm Water Management Act, is not sufficiently  
10 comprehensive to address the needs of this Commonwealth.  
11 While the act provides a basis for storm water management  
12 planning by counties on a watershed basis, additional  
13 provisions are needed in addition to the Storm Water  
14 Management Act requirements to provide integrated and  
15 thorough planning and management of water resources in  
16 watershed-based planning areas and to address current and  
17 past water resources management problems, as well as  
18 prospective and ongoing development.

19 (3) A comprehensive, integrated approach to water  
20 resources management, building on the protections established  
21 under the act of June 22, 1937 (P.L.1987, No.394), known as  
22 The Clean Streams Law, including reasonable regulation of  
23 development and activities causing adverse impacts to waters  
24 of this Commonwealth, is fundamental to public health, safety  
25 and welfare and protection of the citizens of this  
26 Commonwealth, their resources and the environment.

27 (4) Adequate management of this Commonwealth's water  
28 resources requires additional legal mechanisms for  
29 coordination and integration of water resources management  
30 planning among State agencies and county and municipal

1 governments.

2 (5) Dedicated funding is needed to develop and implement  
3 integrated water resources management plans to protect,  
4 maintain, reclaim and restore this Commonwealth's water  
5 resources and the environment and to protect public health,  
6 safety and property.

7 Section 103. Purpose.

8 The purpose of this act is to:

9 (1) Provide for more comprehensive storm water planning  
10 and management, building on the framework found in the act of  
11 October 4, 1978 (P.L.864, No.167), known as the Storm Water  
12 Management Act, and implementing the act of June 22, 1937  
13 (P.L.1987, No.394), known as The Clean Streams Law, to  
14 authorize planning for and remediation of storm water-  
15 associated problems and integrating related water resources  
16 management programs.

17 (2) Restore, reclaim, protect and maintain the water  
18 quality, quantity and natural hydrologic regime; regulate  
19 and, where appropriate, restrict development in the floodways  
20 and floodplains of this Commonwealth's rivers and streams;  
21 preserve the carrying capacity of watercourses; and protect,  
22 maintain, reclaim and restore surface waters and groundwaters  
23 of this Commonwealth.

24 (3) Protect the natural resources, environmental rights  
25 and values secured by the Constitution of Pennsylvania.

26 (4) Authorize counties to undertake and enforce  
27 comprehensive, ecologically sustainable and consistent water  
28 resources management planning; consolidate and coordinate  
29 governmental resources; and establish a dedicated, stable and  
30 tailored funding source. If a county does not elect to

1 undertake such integrated water resources planning or  
2 management, municipalities or water resources management  
3 authorities are authorized to undertake these activities.

4 (5) Encourage the regional implementation of integrated  
5 water resources management plans within watershed-based  
6 planning areas to preserve and protect areas from the adverse  
7 effects of fragmented planning related to water resources  
8 protection, water infrastructure, wet weather and wastewater  
9 management, storm water runoff and subsurface drainage.

10 (6) Authorize the creation of water resources management  
11 authorities to enable counties and municipalities to  
12 regulate, manage, operate and maintain activities, facilities  
13 and development that may affect storm water runoff or water  
14 resources within watershed-based planning areas; regulate,  
15 implement and manage comprehensive storm water management  
16 plans or integrated water resources management plans within  
17 watershed-based planning areas; and undertake the planning  
18 related thereto under this act when appropriate.

19 (7) Encourage water resources management authorities to  
20 utilize a comprehensive integrated water resources approach  
21 for water resources protection, maintenance and improvement,  
22 including quantity and quality, and other environmental  
23 benefits.

24 (8) Authorize dedicated funding to develop and implement  
25 updated, expanded and comprehensive storm water planning and  
26 management, as well as to develop and implement integrated  
27 water resources management plans to protect, maintain,  
28 reclaim and restore this Commonwealth's water resources and  
29 to protect public health, safety, property and the  
30 environment.

1 Section 104. Definitions.

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

5 "Allowable costs." Reasonable expenses associated with  
6 preparation, administration, implementation, revision and  
7 enforcement of department-approved comprehensive storm water  
8 management plans, integrated water resources management plans,  
9 and ordinances adopted pursuant to such plans, and including  
10 storm water or integrated water resource management best  
11 management practice operation and maintenance.

12 "Best management practices." Activities, facilities,  
13 measures or procedures used to protect, maintain, reclaim and  
14 restore the quantity and quality of waters and uses within this  
15 Commonwealth.

16 "Bonds." The notes, bonds and other evidence of indebtedness  
17 or obligations which are authorized to be issued under section  
18 502.

19 "Clean Streams Law." The act of June 22, 1937 (P.L.1987,  
20 No.394), known as The Clean Streams Law.

21 "Comprehensive storm water management plan." A storm water  
22 management plan developed in accordance with act of October 4,  
23 1978 (P.L.864, No.167), known as the Storm Water Management Act,  
24 and the requirements of Chapter 3.

25 "Critical water planning area." An area identified under 27  
26 Pa.C.S. § 3112(a)(6) or (d)(1) (relating to plan contents).

27 "Department." The Department of Environmental Protection of  
28 the Commonwealth.

29 "Infrastructure." Structural elements, structural and  
30 nonstructural management practices and operating procedures that

1 support drinking water, wastewater, storm water, floodplain and  
2 other water resources management activities.

3 "Integrated water resources management." Implementation of  
4 multiple statutory and regulatory planning obligations related  
5 to the water resources of this Commonwealth.

6 "Integrated water resources management plan." A plan  
7 containing all of the elements prescribed under the act of  
8 October 4, 1978 (P.L.864, No.167), known as the Storm Water  
9 Management Act, and the additional requirements of Chapters 3  
10 and 4 which includes proposals for regulating activities and  
11 development that may affect water resources and wastewater  
12 management within the planning area.

13 "Land development." The subdivision of land, or the  
14 improvement of one or more lots, tracts or parcels of land for  
15 any purpose.

16 "Municipalities Planning Code." The act of July 31, 1968  
17 (P.L.805, No.247), known as the Pennsylvania Municipalities  
18 Planning Code.

19 "Municipality." A city, borough, town, township or another  
20 governmental unit when acting as an agent thereof or any  
21 combination of these acting jointly.

22 "Recharge." The process by which water is absorbed and is  
23 added to the zone of saturation of a groundwater aquifer. The  
24 term includes the quantity of water that is added to the zone of  
25 saturation.

26 "Remedial plan." A plan containing all of the elements  
27 prescribed under section 301 which includes requirements for  
28 assessment and remediation of storm water-related problems.

29 "Responsible entity." A county or counties, multiple  
30 municipalities or water resources management authority

1 designated to implement the comprehensive storm water management  
2 plan or integrated water resources management plan, or both,  
3 including construction, operation and maintenance of associated  
4 infrastructure.

5 "Storm water." Drainage runoff from the surface of the land  
6 resulting from precipitation or snow or ice melt.

7 "Storm water best management practice" or "Storm water BMP."  
8 Activities, facilities, measures or procedures used to protect,  
9 maintain, reclaim and restore the quantity and quality of waters  
10 and uses within this Commonwealth as approved by the department.  
11 The term includes plans under the act of October 4, 1978  
12 (P.L.864, No.167), known as the Storm Water Management Act, or  
13 other plans, treatment requirements, operating procedures and  
14 practices to manage and control the rate, volume and water  
15 quality of storm water runoff.

16 "Storm Water Management Act." The act of October 4, 1978  
17 (P.L.864, No.167), known as the Storm Water Management Act.

18 "Storm water management plan." A plan for storm water  
19 management prepared and adopted by a county in accordance with  
20 act of October 4, 1978 (P.L.864, No.167), known as the Storm  
21 Water Management Act.

22 "Submitting agency." A county, counties, multiple  
23 municipalities or a water resources management authority which  
24 elects to develop and submit an integrated water resources  
25 management plan, in accordance with the requirements of section  
26 401(a), to the Department of Environmental Protection for  
27 approval under this act.

28 "Subsurface drainage." Drainage runoff which occurs below  
29 the surface of the ground resulting from precipitation or snow  
30 or ice melt.

1 "Water resources management authority." A body politic and  
2 corporate created under the former act of May 2, 1945 (P.L.382,  
3 No.164), known as the Municipality Authorities Act of 1945, 53  
4 Pa.C.S. Ch. 56 (relating to municipal authorities) or section  
5 501 for the purpose of planning, constructing, operating,  
6 maintaining, managing and regulating storm water or integrated  
7 water resources management structures, practices and activities.

8 "Water resources management planning." Planning based on  
9 watershed areas to protect, maintain, reclaim and restore the  
10 quality and quantity of surface water and groundwater and the  
11 physical, chemical and biological characteristics of bodies of  
12 water from the effects of past and future activities and  
13 development while assuring sustainable supplies of clean water  
14 to meet current and future needs and minimizing the impact of  
15 storm water on public health, safety, property and the  
16 environment.

17 "Watershed." The entire region or area drained by a river or  
18 other body of water, whether natural or artificial.

19 "Watershed-based planning area." A planning area approved by  
20 the Department of Environmental Protection and based on  
21 watershed boundaries, as well as political boundaries or  
22 geographic considerations, that is the focus of a comprehensive  
23 storm water management plan or integrated water resources plan.

## 24 CHAPTER 2

### 25 POWERS AND DUTIES

26 Section 201. Powers and duties of counties.

27 (a) Comprehensive storm water management plan.--A county  
28 shall prepare and ensure implementation of a comprehensive storm  
29 water management plan in accordance with section 301. In  
30 addition to any existing powers, and consistent with the

1 requirements of section 401(a), the county may elect to develop  
2 or implement an integrated water resources management plan in  
3 accordance with Chapter 4.

4 (b) Review and comment.--A county shall review and comment  
5 on the location, design and construction within the watershed-  
6 based planning area of facilities owned or financed, in whole or  
7 in part, by funds from this Commonwealth, including storm water  
8 facilities, water obstructions, flood control projects, highways  
9 and transportation facilities and facilities for the provision  
10 of public utility service, to assure their consistency with the  
11 plans developed pursuant to this act. The county shall review  
12 and take action on such submissions concurrent with the review  
13 period as provided in Article V of the Municipalities Planning  
14 Code.

15 (c) Fee authorization.--Where the county is the responsible  
16 entity designated to implement a comprehensive storm water  
17 management plan or integrated water resources management plan,  
18 or both, the county has all the powers, duties and authority set  
19 forth under section 502(b) and may levy fees for all associated  
20 costs in accordance with section 502(b).

21 (d) Inspection.--In accordance with plans developed under  
22 this act, a county shall also ensure inspection of water  
23 resources-related facilities, provide for routine operation and  
24 maintenance of water resources management facilities and  
25 construct water resources management facilities.

26 (e) Public comment.--A county shall provide for public  
27 comment on all proposed publicly financed water resources  
28 capital projects undertaken pursuant to the remedial plan  
29 requirements in Chapter 3.

30 (f) Compliance.--Nothing that a county does under this act

1 shall relieve any person engaged in activities or in the  
2 alteration or development of land of the responsibility to  
3 comply with the requirements of storm water ordinances of  
4 municipalities, an approved integrated water resources  
5 management plan and the requirements of the Storm Water  
6 Management Act, as well as all of the legal requirements of the  
7 other programs for which planning will be integrated in an  
8 integrated water resources management plan.

9 Section 202. Powers and duties of department and Environmental  
10 Quality Board.

11 (a) Department.--The department shall have the power and  
12 duty to:

13 (1) Coordinate the management of water resources in this  
14 Commonwealth, including the authority to develop processes  
15 and certification programs for consulting and engineering  
16 services.

17 (2) Develop processes and procedures for resolving  
18 disputes associated with comprehensive storm water integrated  
19 water resources management planning among county and  
20 municipal planning bodies and government agencies concerning  
21 plan development or implementation.

22 (3) Develop guidelines and policies to implement the  
23 purposes of this act, which may include specific  
24 comprehensive storm water management plan or integrated water  
25 resources management plan scope and content requirements,  
26 model integrated water resources management plans and model  
27 ordinances.

28 (4) Charge fees associated with the review of integrated  
29 water resources management plans that reasonably reflect the  
30 cost of review.

1 (5) Approve, disapprove or conditionally approve  
2 comprehensive storm water management plans and integrated  
3 water resources management plans.

4 (6) Undertake enforcement as necessary and appropriate  
5 and in accordance with this act.

6 (7) Take any other action required to carry out the  
7 purposes and policies of this act.

8 (8) Upon request of a county or municipality, provide  
9 technical assistance appropriate to accomplish the purposes  
10 of this act.

11 (b) Other laws.--Nothing in this act shall be construed to  
12 abrogate the authority of the department under any of the  
13 environmental laws administered by the department.

14 (c) Board.--The Environmental Quality Board shall adopt  
15 rules and regulations of the department as are necessary and  
16 appropriate to carry out the purposes of this act.

17 Section 203. Powers and duties of municipalities.

18 (a) Implementation of plans.--A municipality or multiple  
19 municipalities shall have the power and duty to implement  
20 comprehensive storm water management plans and any applicable  
21 integrated water resources management plan.

22 (b) Plan.--Consistent with the requirements of section  
23 401(a), multiple municipalities may elect to develop an  
24 integrated water resources management plan in accordance with  
25 Chapter 4.

26 (c) Land development and activities.--Municipalities shall  
27 regulate land development and activities consistent with the  
28 most recent applicable approved comprehensive storm water  
29 management plan or integrated water resources management plan  
30 and shall adopt ordinances to implement these plans.

1 (d) Fee authorization.--Where multiple municipalities are  
2 the responsible entity designated to implement a comprehensive  
3 storm water management plan or integrated water resources  
4 management plan, or both, the multiple municipalities should  
5 have all the powers, duties and authority set forth under  
6 section 502(b) and may levy fees for all associated costs in  
7 accordance with section 502(b).

8 (e) Enforcement.--Nothing in this act shall prohibit a  
9 municipality or county from enforcing any zoning, subdivision or  
10 land development ordinance which the municipality or county has  
11 adopted that is not in conflict with plans developed under this  
12 act.

13 Section 204. Powers and duties of water resources management  
14 authorities.

15 (a) Plan.--Water resources management authorities shall have  
16 the power and duty to implement and administer comprehensive  
17 storm water management plans when so designated and to implement  
18 and administer integrated water resources management plans when  
19 so designated.

20 (b) Integrated plan.--Consistent with the requirements of  
21 section 401(a), water resources management authorities may elect  
22 to develop an integrated water resources management plan in  
23 accordance with Chapter 4.

24 (c) Powers and duties.--Water resources management  
25 authorities shall have the power and duty to set rates and  
26 assess and collect fees to carry out the purposes of this act.

27 (d) Annual report.--Water resources management authorities  
28 shall provide an annual report of actions and activities to the  
29 department.

30 CHAPTER 3

1                   COMPREHENSIVE STORM WATER MANAGEMENT PLANNING

2 Section 301. Comprehensive storm water planning and management  
3                   requirements.

4       (a) Watershed boundaries.--Comprehensive storm water  
5 management plans shall be based on the watershed boundaries  
6 described in plans developed in accordance with the Storm Water  
7 Management Act, unless an alternate watershed-based planning  
8 area is approved by the department for good cause shown.

9       (b) Plans and updates.--Except as provided under subsection  
10 (e), within five years of the effective date of this section,  
11 counties shall prepare or update the plans developed in  
12 accordance with the Storm Water Management Act and, at a  
13 minimum, shall also prepare a remedial plan, which together  
14 shall constitute the comprehensive storm water management plan.  
15 At a minimum, the remedial plan shall include the following:

16           (1) Identification and assessment of existing problems  
17           associated with storm water runoff and subsurface drainage  
18           and the conditions that cause or contribute to the problems.

19           (2) Proposed solutions to or remediation of existing  
20           problems which take into account peak rates of storm water  
21           runoff, the volume and velocity of storm water runoff and the  
22           quality of the storm water runoff necessary to prevent  
23           pollution and to protect, maintain, reclaim and restore  
24           waters of this Commonwealth, including:

25                   (i) A remediation and retrofit priorities list.

26                   (ii) A prioritized schedule for implementation and  
27                   completion of the remedial plan.

28                   (iii) A designation of the responsible entity for  
29                   implementation of the plan and operation and maintenance  
30                   of remedial infrastructure.

1           (3) Inventory of significant existing storm water  
2 management facilities in the watershed, their engineering  
3 design features, their ownership and maintenance  
4 responsibility and an assessment of their functional  
5 effectiveness.

6           (4) A program for public information, participation and  
7 education.

8           (5) Provision for comprehensive storm water management  
9 plan review and update at a minimum of every five years.

10          (6) Demonstration of or steps to achieve general  
11 consistency with:

12           (i) The applicable comprehensive plans of the  
13 municipality and county enacted under the Municipalities  
14 Planning Code.

15           (ii) Other existing applicable Federal, State,  
16 interstate, regional and county environmental and land  
17 use plans.

18           (iii) Existing applicable watershed storm water  
19 management plans, including minimum standards required by  
20 the Storm Water Management Act.

21          (c) Exception.--Except as provided under this act, the  
22 requirements and procedures in sections 6, 7, 8, 9, 10, 11 and  
23 12 of the Storm Water Management Act shall be followed in  
24 developing the comprehensive storm water management plan under  
25 this section. These provisions apply to development and  
26 implementation of the applicable plan and implementing ordinance  
27 and regulation revisions required by this section.

28          (d) Design criteria and standards.--The comprehensive storm  
29 water management plan shall identify the design criteria or  
30 performance standard for any storm water management practice

1 implemented under this section, and the county or the department  
2 shall have no responsibility to reimburse the cost of any  
3 practice not meeting the design criteria or performance  
4 standard.

5 (e) Extension of deadline.--The department may extend the  
6 deadline under subsection (b) for preparation of a comprehensive  
7 storm water management plan, if upon application by such  
8 counties for grants and reimbursements authorized under section  
9 608(a) to meet the requirements of this chapter, the department  
10 determines that such grants and reimbursements are not  
11 available. The department may extend the deadline for such  
12 counties for compliance with subsection (b) for up to five years  
13 from the date of the department's authorization of such grants  
14 or reimbursements.

15 Section 302. Review and approval or disapproval by department.

16 (a) General rule.--The department may approve or disapprove  
17 comprehensive storm water management plans in whole or in part  
18 or with conditions that the department determines are reasonable  
19 and appropriate.

20 (b) Effect of inaction by department.--Unless the department  
21 approves, conditionally approves or disapproves the  
22 comprehensive storm water management plan within 120 days of  
23 receipt, the plan shall be deemed acceptable as submitted.

24 Section 303. Implementation of comprehensive storm water  
25 management plans.

26 (a) Ordinances.--Within 12 months following adoption and  
27 approval of a comprehensive storm water management plan, each  
28 municipality shall adopt or amend such ordinances and  
29 regulations, including zoning, subdivision and development,  
30 building code and erosion and sedimentation ordinances,

1 necessary to regulate development and activities and to control  
2 storm water within the municipality in a manner consistent with  
3 the applicable comprehensive storm water management plan,  
4 including the remedial plan to address existing problems, and  
5 the provisions of the Storm Water Management Act and this act.

6 (b) Remedial plan.--Following adoption and approval of  
7 comprehensive storm water management plans, the responsible  
8 entity shall implement the remedial plan.

9 (c) Infrastructure implementation.--Unless otherwise  
10 specified in a county-adopted and department-approved  
11 comprehensive storm water management plan, infrastructure  
12 improvements under the comprehensive storm water management plan  
13 shall be implemented by any of the following means:

14 (1) Each municipality will carry out the plan within its  
15 boundaries, either individually or by agreement with another  
16 municipality, county or a joint agency.

17 (2) One or more municipalities in the watershed may  
18 request that the county or counties in the watershed assume  
19 responsibility for implementation of the plan. The county or  
20 counties may assume responsibility for implementation of the  
21 plan and operational authority for the storm water facilities  
22 as provided for in the plan, but only for municipalities that  
23 agree to allow the county or counties to assume  
24 implementation responsibilities.

25 (3) If two-thirds of the municipalities, representing at  
26 least 51% of the population within the watershed, through  
27 adoption of resolutions of their governing bodies, request  
28 that the county or counties in the watershed assume  
29 responsibility for implementation of the plan, then the  
30 county or counties shall meet with the municipalities to

1 develop a plan of implementation, to be adopted within 12  
2 months.

3 (d) Responsible entity.--Where the responsible entity fails  
4 to timely implement the remedial plan associated with approved  
5 and adopted comprehensive storm water management plans, the  
6 county may implement the remedial plan.

7 (e) Development of model ordinances.--Within three years of  
8 the effective date of this section, the department shall develop  
9 a set of model ordinances, including a specific model  
10 comprehensive storm water management ordinance, that can be used  
11 as a guide by municipalities to adopt regulations designed to  
12 implement the applicable comprehensive storm water management  
13 plan.

14 (f) Waiver provisions.--The implementing ordinances and  
15 regulations shall not contain a waiver provision except for  
16 those waivers included in the model ordinance in the adopted and  
17 approved comprehensive storm water management plan.

18 (g) Decisions.--The department, other Commonwealth  
19 departments and agencies and county and municipal governments  
20 and agencies shall consider and shall make decisions with  
21 respect to issuance of permits, approvals or grants that are  
22 generally consistent with comprehensive storm water management  
23 plans prepared, adopted and approved under this act.

24 (h) Review and issuance procedures.--The department shall  
25 develop procedures to coordinate the review and issuance of all  
26 department permits, approvals or grants that cover construction,  
27 operation and maintenance of all current and future facilities  
28 that are necessary to implement the comprehensive storm water  
29 management plans, including the designation of a single point of  
30 contact for all department permits or approvals for the

1 facilities.

2 (i) Construction.--Nothing in this act shall be construed to  
3 relieve a county or municipality from compliance with existing  
4 obligations under the Storm Water Management Act.

5 Section 304. Failure to submit and implement comprehensive  
6 storm water management plan.

7 (a) Actions.-- Any person, a municipality or the department  
8 may institute an action in mandamus to compel a county to  
9 prepare, adopt and submit a comprehensive storm water management  
10 plan in accordance with the Storm Water Management Act and this  
11 act.

12 (b) Administrative remedies.--The department may utilize  
13 administrative remedies, including administrative orders, or may  
14 institute an action in mandamus to compel a county to prepare,  
15 adopt and submit a comprehensive storm water management plan in  
16 accordance with the Storm Water Management Act and this act.

17 (c) Reimbursement.--When action by the municipality or  
18 department is required to compel a county to prepare, adopt,  
19 submit or implement a plan, the department shall not provide  
20 grants or reimbursements to the county for the cost of the plan.

21 (d) Costs and fees.--The costs, attorney fees,  
22 administrative fees and other expenses associated with  
23 proceedings under this section shall be recoverable from the  
24 violator.

25 Section 305. Failure of municipalities to adopt ordinances and  
26 implement plans.

27 (a) Procedure following approval.--Following adoption and  
28 approval of a comprehensive storm water management plan, in  
29 accordance with section 303(a):

30 (1) Any person may institute an action in mandamus to



1 develop integrated water resources management plans in  
2 accordance with this act, beginning one year from the effective  
3 date of this act.

4 (b) Plans.--Integrated water resources management plans may  
5 be developed for individual or multiple watersheds, or upon  
6 department-approved watershed-based planning areas, designated  
7 in accordance with, but not limited to, the following  
8 considerations:

9 (1) Existence of critical water planning areas.

10 (2) Waters listed pursuant to section 303 of the Federal  
11 Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. §  
12 1313(d)).

13 (3) Flooding history.

14 (4) Special protection watersheds.

15 (5) Current or projected population density.

16 (6) Current or projected rate of development.

17 (7) Percent of impervious cover.

18 (c) Minimum requirements.--Integrated water resources  
19 management plans shall, at a minimum, be consistent with this  
20 act and the following statutes:

21 (1) The Federal Water Pollution Control Act (62 Stat.  
22 1155, 33 U.S.C. § 1251 et seq.).

23 (2) The Safe Drinking Water Act (Public Law 93-523, 21  
24 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f et seq.).

25 (3) The Clean Streams Law.

26 (4) The act of May 1, 1984 (P.L.206, No.43), known as  
27 the Pennsylvania Safe Drinking Water Act.

28 (5) The Storm Water Management Act.

29 (6) The act of October 4, 1978 (P.L.851, No.166), known  
30 as the Flood Plain Management Act.

1 (7) The act of January 24, 1966 (1965 P.L.1535, No.537),  
2 known as the Pennsylvania Sewage Facilities Act.

3 (8) The act of November 26, 1978 (P.L.1375, No.325),  
4 known as the Dam Safety and Encroachments Act.

5 (9) The Water Resources Development Act of 1986 (Public  
6 Law 99-662, 33 U.S.C. § 2213(j)).

7 (10) The act of June 24, 1939 (P.L.842, No.365),  
8 referred to as the Water Rights Law.

9 (11) The act of May 15, 1945 (P.L.547, No.217), known as  
10 the Conservation District Law.

11 (12) The Municipalities Planning Code.

12 (13) The provisions of 53 Pa.C.S. Ch.56 (relating to  
13 municipal authorities).

14 (14) The provisions of 3 Pa.C.S. Ch. 5 (relating to  
15 nutrient management and odor management).

16 (15) Any other applicable Federal or State law as  
17 determined by the department.

18 (d) Entities.--Entities which elect to undertake integrated  
19 water resources management planning shall do so in accordance  
20 with this act.

21 (e) Compliance.--If an entity elects to undertake integrated  
22 water resources management planning and the plan is approved by  
23 the department in accordance with this act, the entity is deemed  
24 to have satisfied the procedural and substantive planning  
25 requirements of the acts listed in subsection (c) that impose  
26 planning requirements.

27 Section 402. Integrated water resources management planning  
28 process.

29 (a) Boundaries.--Integrated water resource management plans  
30 shall be based upon the boundaries described in plans developed

1 in accordance with section 401(b), unless an alternate  
2 watershed-based planning area is approved by the department for  
3 good cause shown.

4 (b) Development.--Public participation in the development of  
5 the integrated water resources management plan shall be provided  
6 as follows:

7 (1) An integrated water resources management plan  
8 advisory committee, composed of one representative appointed  
9 by the governing body of each municipality in the watershed-  
10 based planning area, the county and any county conservation  
11 district in the planning area watershed, any compact basin  
12 commission in the planning area watershed and other agencies  
13 and groups, as are necessary and proper, shall be established  
14 to advise the submitting agency throughout the process.

15 (2) Prior to adoption, the plan shall be reviewed by the  
16 official planning agency, if one exists, and governing body  
17 of each municipality and county and by each regional planning  
18 agency in the watershed for general consistency with other  
19 plans and programs affecting the watershed-based planning  
20 area. All such reviews and the submitting agency's responses  
21 shall be submitted to the department with the plan at the  
22 time a review of the plan is requested from the department.

23 (3) Prior to adoption or amendment of the plan,  
24 reasonable public notice shall be given at least 14 days  
25 prior to the hearing, and a public hearing shall be held  
26 within the watershed-based planning area.

27 (c) Adoption.--Adoption or amendment by the submitting  
28 agency of the integrated water resources management plan shall  
29 be by resolution of the governing body or bodies of the agency  
30 or agencies identified in subsection (b), which have authorized

1 development of the plan.

2 (d) Approval by department.--The following shall apply:

3 (1) Prior to adoption or substantive amendment, the  
4 submitting agency shall submit the integrated water resources  
5 management plan to the department for review. The department  
6 shall approve or conditionally approve the plan if it  
7 determines that it is generally consistent with the  
8 following:

9 (i) Section 401(c).

10 (ii) All current approved watershed restoration and  
11 protection plans that have been developed in the planning  
12 area.

13 (iii) All current approved total maximum daily loads  
14 (TMDLs) for waters of the planning area.

15 (iv) All current source water protection plans that  
16 have been adopted in the planning area.

17 (v) All current rivers conservation plans in the  
18 watershed-based planning area that have been approved by  
19 the Department of Conservation and Natural Resources.

20 (vi) All current critical area resource plans that  
21 have been approved by the department.

22 (vii) All current applicable water resources plans  
23 adopted by a river basin commission.

24 (2) Unless the department approves, conditionally  
25 approves or disapproves the integrated water resources  
26 management plan within 120 days of receipt, the plan will be  
27 deemed acceptable as submitted.

28 (3) If the department determines that the proposed  
29 integrated water resources management plan will not meet the  
30 requirements of this act, the department will disapprove the

1 plan in writing, which writing shall identify the basis for  
2 disapproval.

3 (4) The integrated water resources management planning  
4 area, either based upon the boundaries described in plans  
5 developed in accordance with the Storm Water Management Act  
6 or an alternate watershed-based planning area approved by the  
7 department, shall be considered a reasonable geographic area  
8 in a multimunicipal comprehensive plan prepared pursuant to  
9 Article XI of the Municipalities Planning Code as long as the  
10 county or multiple municipalities follow the procedures in  
11 Article XI of the Municipalities Planning Code.

12 (e) Design criteria and standards.--The integrated water  
13 management plan shall identify the design criteria or  
14 performance standard for any water management practice  
15 implemented under this section, and the county or the department  
16 shall have no responsibility to reimburse the cost of any  
17 practice not meeting the design criteria or performance  
18 standard.

19 Section 403. Integrated water resources management plan  
20 requirements.

21 (a) Local authorization.--The following shall apply:

22 (1) The submitting agency may develop an integrated  
23 water resources management plan as described in this section.  
24 If all counties or municipalities in the watershed do not  
25 agree to develop the plan, the plan shall use standards at  
26 the boundaries of the nonparticipating county or  
27 municipalities that are consistent with the integrated water  
28 resources management plan.

29 (2) Federal lands shall be included in the integrated  
30 water resources management plan in consultation with the

1 United States Department of the Interior.

2 (3) State lands shall be included in the integrated  
3 water resources management plan in consultation with the  
4 appropriate State agency.

5 (4) The integrated water resources management plan shall  
6 be generally consistent with comprehensive plans of counties  
7 and municipalities enacted under the Municipalities Planning  
8 Code.

9 (5) A comprehensive plan of a county or a municipality  
10 enacted under the Municipalities Planning Code, subsequent to  
11 adoption of this act, shall be generally consistent with the  
12 integrated water resources management plan approved under  
13 this act that applies to the county or municipality.

14 (6) An integrated water resources management plan  
15 adopted on a multimunicipal basis pursuant to this act shall  
16 constitute the water planning required pursuant to section  
17 301(a) (4) of the Municipalities Planning Code and shall be  
18 considered a plan for the reliable supply of water pursuant  
19 to section 301(b) of the Municipalities Planning Code if it  
20 is a component of a multimunicipal comprehensive plan  
21 prepared pursuant to Article XI of the Municipalities  
22 Planning Code, as long as the county or multiple  
23 municipalities follow the procedures in Article XI of the  
24 Municipalities Planning Code.

25 (b) Plan content.--The integrated water resources management  
26 plan, at a minimum, shall:

27 (1) Coordinate the planning provisions in and  
28 demonstrate consistency with Federal and State statutes and  
29 programs identified in section 401(a).

30 (2) Delineate the approved watershed-based planning area

1 boundary.

2 (3) Inventory all existing and planned water and  
3 wastewater treatment systems and service areas and all  
4 significant water resources management facilities within the  
5 watershed, their ownership and the parties responsible for  
6 their operation and maintenance and provide an assessment of  
7 the functional effectiveness of such systems and facilities.

8 (4) Estimate current and future water demands.

9 (5) Identify all local conservation areas such as  
10 protected riparian corridors, conservation easements,  
11 wellhead and source water protection areas, preserved  
12 farmland, greenways, publicly owned land and other areas that  
13 have land-use restrictions based on natural conditions.

14 (6) Identify all environmentally sensitive features of  
15 the watershed, such as wetlands, habitat for rare and  
16 endangered plant and animal species, special protection  
17 waters and karst geology.

18 (7) Identify and consider all current storm water  
19 management and watershed protection and restoration plans  
20 that have been prepared by citizen groups, nonprofit  
21 organizations, conservation districts, county and municipal  
22 governments and Federal, State, interstate or regional  
23 agencies.

24 (8) Identify and describe all existing regionally  
25 significant water quality problems and water resources  
26 management problems within the watershed, including those  
27 caused by domestic or industrial wastewater, nonpoint sources  
28 of pollution, water availability and storm water and  
29 floodplain management problems.

30 (9) Project future land-use changes over a ten-year

1 period based on population estimates, anticipated  
2 development, planning and zoning requirements, economic  
3 considerations and public infrastructure.

4 (10) Identify and evaluate alternatives for future water  
5 demands, including water supply and wastewater demands.

6 (11) Identify, evaluate and prioritize management  
7 practices, procedures and other strategies to protect,  
8 maintain, reclaim, restore and enhance water quality and  
9 water resources based on existing conditions and projected  
10 growth and land use changes.

11 (12) Designate the responsible entity for implementation  
12 of the plan and for operation and maintenance of water  
13 quality protection and water resources management facilities,  
14 such as wastewater treatment plants and community or  
15 individual storm water control facilities.

16 (13) Identify and evaluate potential water conservation  
17 and reuse measures.

18 (14) Identify and evaluate source water protection  
19 alternatives.

20 (15) Identify financing alternatives, including rate  
21 structures for fees and assessments to implement the plan.

22 (16) Present selected financing methods and priorities.

23 (17) Present a prioritized schedule and process for plan  
24 implementation.

25 (18) Establish a program for public participation,  
26 information and education.

27 (19) Provide for plan reviews and updates on a minimum  
28 five-year cycle.

29 (20) Provide model ordinances for plan implementation.

30 (c) Additional issues.--The integrated water resources

1 management plans may address additional issues, including the  
2 following:

3 (1) Preventing increased flood stages in streams.

4 (2) Controlling the quantity, peak and volume,  
5 direction, rate and velocity of storm water runoff and  
6 subsurface drainage and the quality thereof consistent with  
7 State water quality standards.

8 (3) Improving groundwater recharge.

9 (4) Maximizing the opportunities for integration of  
10 water resources management and protection under the existing  
11 laws and regulations.

12 (5) Creating water resources management corridors  
13 pursuant to section 405.

14 (6) Supporting ecologically sustainable water  
15 management, sustainable water supplies, water conservation,  
16 surface and groundwater management, development of resource  
17 strategies, providing for long-term infrastructure investment  
18 strategies, evaluating environmental impacts and options and  
19 evaluating economic impacts and options.

20 Section 404. Implementation of integrated water resources  
21 management plans.

22 (a) Requirements.--Within 180 days of the department's  
23 approval of an integrated water resources management plan, each  
24 county and municipality within the area subject to the plan  
25 shall:

26 (1) Adopt or amend ordinances and regulations, including  
27 zoning, subdivision and development, building code, erosion  
28 and sedimentation and storm water ordinances, as are  
29 necessary to regulate development and local activities in a  
30 manner consistent with the applicable approved plan and the

1 provisions of this act.

2 (2) Implement ordinances and regulations, including  
3 zoning, subdivision and development, building code, erosion  
4 and sedimentation and storm water ordinances, as are  
5 necessary to regulate development and local activities in a  
6 manner consistent with the applicable approved plan and the  
7 provisions of this act.

8 (b) Infrastructure implementation.--Infrastructure  
9 improvements under an integrated water resources management plan  
10 shall be implemented through any of the following:

11 (1) A municipality will carry out the plan within its  
12 boundaries, either individually or by agreement with another  
13 municipality or county or a joint agency.

14 (2) One or more municipalities in the watershed may  
15 request that the county or counties in the watershed assume  
16 responsibility for implementation of the plan. The county or  
17 counties may assume responsibility for implementation of the  
18 plan and operational authority for the water resources  
19 management facilities provided for in the plan, but only for  
20 municipalities that agree to allow the county or counties to  
21 assume implementation responsibilities.

22 (3) If two-thirds of the municipalities, representing at  
23 least 51% of the population within the watershed, through  
24 adoption of resolutions of their governing bodies, request  
25 that the county or counties in the watershed assume  
26 responsibility for implementation of the plan, then the  
27 county or counties shall meet with the municipalities to  
28 develop a plan of implementation to be adopted within 12  
29 months.

30 (c) Development of model ordinances.--Within 180 days of the

1 effective date of this section, the department will develop a  
2 set of model ordinances, including a specific model integrated  
3 water resources management ordinance, that can be used as a  
4 guide by local governments to adopt regulations designed to  
5 implement their integrated water resources management plan.

6 (d) Waiver.--The implementing ordinances and regulations  
7 shall not contain a waiver provision except for those waivers  
8 included in the model ordinance in the adopted and approved  
9 integrated water resources management plan.

10 (e) Permits, approvals or grants.--The department, other  
11 Commonwealth departments and agencies and county and municipal  
12 governments and agencies shall consider and shall make decisions  
13 with respect to issuance of permits, approvals or grants that  
14 are generally consistent with integrated water resources  
15 management plans adopted under this act.

16 (f) Review and issuance procedures.--The department shall  
17 develop procedures to coordinate the review and issuance of all  
18 department permits, approvals or grants that cover construction,  
19 operation and maintenance of all current and future facilities  
20 that are necessary to implement the integrated water resources  
21 management plans, including the designation of a single point of  
22 contact for all department permits or approvals for such  
23 facilities.

24 (g) County implementation.--Where the responsible entity  
25 fails to timely implement the approved and adopted integrated  
26 water resources management plan, the county may implement the  
27 approved integrated water resources management plan.

28 Section 405. Water resources management corridors.

29 (a) Additional limitations.--Integrated water resources  
30 management plans may establish water resources management

1 corridors to provide additional limitations on activities and  
2 development for protection of waters of this Commonwealth, and  
3 in the interest of public health and safety, those designated as  
4 special protection under the department's rules and regulations,  
5 critical riparian areas, including minimum riparian buffers,  
6 wetlands, critical habitat areas and floodplain management  
7 areas.

8 (b) Protection of corridors.--The submitting agency shall  
9 ensure that water resources management corridors are protected  
10 through acquisition, easements, trusts or other appropriate  
11 legal instruments that guarantee forested buffering, building  
12 setbacks and reasonable and appropriate public access.

13 (c) Adjacent watersheds.--Development of integrated water  
14 resources management plans established for adjacent watersheds,  
15 which contain water resources management corridors, shall be  
16 coordinated by submitting agencies to ensure consistency among  
17 water resources management corridors.

18 Section 406. Failure of municipalities to adopt implementing  
19 ordinances.

20 (a) Procedures.--Following adoption and approval of an  
21 integrated water resources management plan:

22 (1) A county or the department may institute an action  
23 in mandamus to compel a municipality to adopt implementing  
24 ordinances and to implement an integrated water resources  
25 management plan and ordinances in accordance with this act.

26 (2) The county or department may utilize administrative  
27 remedies, including administrative orders, or may institute  
28 an action in mandamus to compel a municipality to adopt  
29 ordinances or to implement an integrated water resources  
30 management plan in accordance with this act.



1 relating to projects of the kind and character set forth below:

2 (1) Comprehensive storm water planning, collection,  
3 treatment, remedial plan implementation and infrastructure  
4 management and parts thereof, including regulation, operation  
5 and maintenance, repair, replacement, reconstruction and  
6 expansion pursuant to the Storm Water Management Act and this  
7 act.

8 (2) Integrated water resources management in accordance  
9 with plans adopted and approved under this act.

10 (c) Transfer of authority and obligation to operate and  
11 maintain water resources management best management practices to  
12 water authorities.--Transfer of authority shall be conducted as  
13 follows:

14 (1) The authority and obligation to operate and maintain  
15 water resources management best management practices,  
16 including comprehensive storm water management or integrated  
17 water resources management best management practices on  
18 private lands, may be transferred to the county or water  
19 resources management authority at their discretion. Whether  
20 transferred or not, the operation and maintenance shall be  
21 consistent with the design standards, criteria, schedules and  
22 other requirements established under the comprehensive storm  
23 water management or integrated water resources management  
24 plans.

25 (2) All transferred obligations shall be subject to an  
26 easement for maintenance and inspection access.

27 Section 502. Additional powers and duties of water resources  
28 management authorities.

29 (a) Exceptions.--Except as provided by this act, the  
30 requirement and procedures in 53 Pa.C.S. § 5607 (relating to

1 purposes and powers) shall be followed in developing the rates  
2 and fees and the process for assessing and collecting such fees.

3 (b) Fee authorization.--In addition to the authority  
4 provided in 53 Pa.C.S. § 5607, the water resources management  
5 authority may levy a fee on property owners, users or consumers  
6 of the services provided by the authority to pay for all costs  
7 associated with planning, implementation, administration and  
8 enforcement under the Storm Water Management Act or this act,  
9 and including the authority to:

10 (1) Fix, alter, charge and collect fees in the area  
11 served by the water resource management authority, in order  
12 to carry out the powers and duties authorized under this act,  
13 including preparation of integrated water resources  
14 management plans and their implementation and the acquisition  
15 or construction of storm water or water resources management  
16 facilities in the watershed or watershed-based planning area.  
17 The fee may be based, in whole or in part, as a user or  
18 service fee, special assessment fee, impact fee, bonding or  
19 other fee for services. Such fees and charges shall be based  
20 on estimates of revenues required to pay the costs of  
21 preparation, administration, implementation, revision and  
22 enforcement of department-approved comprehensive storm water  
23 management plans or integrated water resources management  
24 plans, or both if applicable, including administration, debt  
25 service on obligations to finance the storm water or water  
26 resources management facilities, operation and maintenance  
27 costs incurred by the water resources management authority  
28 and reimbursement of costs to counties and municipalities.

29 (2) Collect delinquent fees in accordance with the act  
30 of May 16, 1923 (P.L.207, No.153), referred to as the

1 Municipal Claim and Tax Lien Law.

2 (3) Revenues from fees and charges collected in  
3 accordance with this section shall be deposited in separate  
4 revenue funds of the water resources management authorities  
5 and shall not be used for purposes other than storm water or  
6 integrated water resources management in accordance with  
7 department-approved plans.

8 (4) Borrow money, make and issue negotiable notes,  
9 bonds, refunding bonds and other evidences of indebtedness or  
10 bonds of the agency which may not have a maturity date longer  
11 than 40 years from the date of issue.

12 (5) Secure payment of the bonds or any part thereof by  
13 pledge or deed of trust of all or any of its revenues and  
14 receipts and make agreements with the purchasers or holders  
15 of bonds or with others in connection with any bonds, whether  
16 issued or to be issued.

17 (6) Use any available Federal or State funds, and any  
18 other funds, and set up accounts as necessary to implement  
19 the provisions of this act.

20 (7) Include in the rate or fee structure costs  
21 associated with planning, design, construction and operation  
22 of capital facilities, including the development of  
23 maintenance schedules.

24 (8) Receive impact fees or participation costs and  
25 maintenance bonds or other contributions related to provision  
26 of water resources management services.

27 (c) Reimbursement of implementation and maintenance costs.--  
28 The following shall apply to reimbursement:

29 (1) A county or municipality shall be reimbursed by the  
30 water resources management authority for reasonable costs

1 that support the comprehensive storm water management plan or  
2 integrated water resources plan implementation,  
3 administration and maintenance under subsection (b) (1) and  
4 (2).

5 (2) Reimbursement shall not include costs related to  
6 sanitary sewage facilities.

7 (3) The water resources management authority shall have  
8 the right to audit the county's or municipalities' costs of  
9 implementation and maintenance for which reimbursement is  
10 sought.

11 (4) Nothing in this section shall be construed to limit  
12 or impair application of this act to any county, municipality  
13 or person, or to relieve any county, municipality or person  
14 of duties required under this act, including preparation and  
15 implementation of plans.

16 (d) Design criteria and standards.--The comprehensive storm  
17 water management plan or integrated water resources management  
18 plan shall identify the design criteria or performance standard  
19 for any storm water management practice implemented under this  
20 section, and the county shall have no responsibility to  
21 reimburse the cost of any practice not meeting the design  
22 criteria or performance standard.

23 (e) Maintenance of storm water practices or integrated water  
24 resources management facilities.--Continuing maintenance of  
25 storm water or water resources management practice shall be the  
26 responsibility of the water resources management authority  
27 implementing the practice under subsection (b) (1) and (2) unless  
28 there is specific agreement otherwise between the authority and  
29 the implementing party.

30 (f) Objections.--Any resident, owner of real property or

1 person in the plan area questioning the rate or fees fixed by  
2 the county, including extensions of service thereof, shall first  
3 raise such objections with the county or the water resources  
4 management authority, as the case may be. After exhausting their  
5 administrative remedies, persons may bring suit against the  
6 water resources management authority or county in the court of  
7 common pleas of the county in which the principal office of the  
8 water resources management authority is located.

9 CHAPTER 6

10 RIGHTS, REMEDIES, FUNDING AND ENFORCEMENT

11 Section 601. Duty of persons engaged in development of land.

12 Any landowner and any person engaged in any activity,  
13 alteration or development of land which may affect water  
14 resources or storm water runoff characteristics shall:

15 (1) Manage rate, volume, velocity, direction and quality  
16 of runoff so as to:

17 (i) Prevent pollution to waters of this Commonwealth  
18 as defined in the Clean Streams Law.

19 (ii) Protect safety and prevent injury to health and  
20 other property.

21 (2) Ensure that the maximum rate of storm water runoff  
22 is not increased.

23 (3) Where there are applicable comprehensive storm water  
24 management plans or integrated water resources management  
25 plans, implement such measures consistent with the provisions  
26 in the applicable plans as are reasonably necessary to  
27 protect, maintain, reclaim and restore waters of this  
28 Commonwealth and to prevent injury to health, safety or  
29 property.

30 Section 602. Funding and imposing fees on tax-exempt property.

1 (a) General rule.--Except as provided under subsection (b),  
2 real property that is exempt from the payment of real estate tax  
3 shall be subject to the fees and charges imposed in accordance  
4 with this act.

5 (b) Exempt property.--The following property shall be exempt  
6 from the fees imposed by this act:

7 (1) Property owned by a political subdivision, county or  
8 municipality.

9 (2) Property owned by an authority.

10 Section 603. Entry upon land for surveys and examinations.

11 (a) Representatives.--Designated representatives of the  
12 Commonwealth or a county, municipality or authority, upon  
13 serving a reasonable notice and with the authorization of the  
14 landowner or occupier, may enter upon lands in the plan area to  
15 make surveys and examinations to accomplish the planning  
16 purposes of this act.

17 (b) Inspections.--The department is authorized to make  
18 inspections, conduct tests or sampling or examine books, papers  
19 and records pertinent to any matter under investigation pursuant  
20 to this act as it deems necessary to determine compliance with  
21 this act, and, for this purpose, the duly authorized agents and  
22 employees of the department are authorized at all reasonable  
23 times to enter and examine any property, facility, operation or  
24 activity.

25 (c) Agents and employees.--The owner, operator or other  
26 person in charge of property, facilities, operations or  
27 activities where storm water or integrated water resources  
28 management facilities are located shall, upon presentation of  
29 proper identification and purpose for inspection, give agents  
30 and employees of the department free and unrestricted entry and

1 access, and, upon refusal to grant entry or access, the agent or  
2 employee may obtain a search warrant or other suitable order  
3 authorizing entry and inspection. It shall be sufficient  
4 probable cause to issue a search warrant authorizing examination  
5 and inspection if there is probable cause to believe that the  
6 object of the investigation is subject to regulation under this  
7 act and access, examination or inspection is necessary to  
8 enforce the provisions of this act.

9 Section 604. Preservation of existing rights and remedies.

10 The taking of any action under the provisions of this act  
11 shall not be construed as estopping the Commonwealth or any  
12 county, municipality or aggrieved person from proceeding in  
13 courts of law or equity to abate nuisances under existing law or  
14 to restrain, at law or in equity, a violation of this act.

15 Section 605. Civil remedies.

16 (a) Public nuisance.--Any activity conducted in violation of  
17 the provisions of this act or of any comprehensive storm water  
18 management plan or integrated water resources management plan or  
19 regulations or ordinances adopted under this act is hereby  
20 declared a public nuisance.

21 (b) Actions.--

22 (1) Suits to restrain, prevent or abate violations of  
23 this act or of any comprehensive storm water management plan,  
24 integrated water resources management plan, regulations or  
25 ordinances adopted under this act may be instituted in equity  
26 or at law by the department, any affected county or  
27 municipality or any aggrieved person in any court of  
28 competent jurisdiction.

29 (2) Except in cases of emergency where, in the opinion  
30 of the court, the circumstances of the case require immediate

1 abatement of the unlawful conduct, the court may, in its  
2 decree, fix a reasonable time during which the person  
3 responsible for the unlawful conduct shall correct or abate  
4 the conduct.

5 (3) The costs, attorney fees, administrative fees and  
6 other expenses associated with proceeding under this section  
7 shall be recoverable from the violator.

8 (c) Any person injured by conduct which violates the  
9 provisions of this act may, in addition to any other remedy  
10 provided under this act, recover damages caused by a violation  
11 from the landowner or other responsible person.

12 Section 606. Administrative procedure and judicial review.

13 (a) Appeal of action of department.--Any person aggrieved by  
14 any action of the department under this act shall have the right  
15 within 30 days of receipt of notice of such action to appeal to  
16 the Environmental Hearing Board.

17 (b) Appeal of action of political subdivision.--Any person  
18 aggrieved by any action of a county, municipality or water  
19 resources management authority under this act shall have a right  
20 to appeal in accordance with 2 Pa.C.S. Chs. 5 (relating to  
21 practice and procedure) and 7 (relating to judicial review).

22 Section 607. Integrated Water Resources Management Account.

23 All fees collected by the department under this act shall be  
24 paid into the State Treasury into a special restricted receipt  
25 account in the General Fund, known as the Integrated Water  
26 Resources Management Account, which shall be administered by the  
27 department to implement the purposes of this act and which funds  
28 are hereby appropriated to the Department of Environmental  
29 Protection for such purposes.

30 Section 608. Grants and reimbursements.

1 (a) Grants.--The department may administer grants to  
2 counties and water resources management authorities to assist or  
3 reimburse the counties, municipalities and the water resources  
4 management authorities for allowable costs in preparing the  
5 initial comprehensive storm water management plans and  
6 integrated water resources management plans under this act.  
7 Grants and reimbursements shall be made from, and to the extent  
8 of, funds appropriated by the General Assembly for such purposes  
9 and shall be made in accordance with rules and regulations  
10 promulgated or amended by the Environmental Quality Board.

11 (b) Limitation.--The grants shall equal 75% of the allowable  
12 costs under this act.

13 (c) State grants.--For purposes of this section, State  
14 grants shall be in addition to grants for similar purposes made  
15 to any county or authority by the Federal Government, or other  
16 sources, provided that the grants authorized by this section  
17 shall be limited such that the total of all State grants does  
18 not exceed 75% of allowable costs under this act.

19 (d) Applicability.--Nothing in this section shall be  
20 construed to impair or limit application of this act to any  
21 municipality, county, water resources management authority or  
22 person or to relieve any municipality, county, water resources  
23 management authority or person of duties imposed under this act.

24 (e) Report by department.--If, in any fiscal year,  
25 appropriations are insufficient to cover the costs or grants and  
26 reimbursement to all municipalities, counties and water  
27 resources management authorities eligible for grants and  
28 reimbursements in that fiscal year, the department shall report  
29 that fact to the General Assembly and shall request  
30 appropriation of funds necessary to provide the grants and

1 reimbursements authorized under this section. If a deficiency  
2 appropriation is not enacted, any municipality, county or water  
3 resources management authority which has not received the full  
4 amount of the grant or reimbursement for which it is eligible  
5 under this section shall be, as a first priority, reimbursed  
6 from appropriations made in the next successive fiscal year.

7 (f) Reimbursement of expenses.--Municipalities located in  
8 watershed-based planning areas for which comprehensive storm  
9 water management or integrated water resources management plans  
10 have been prepared or updated and adopted by counties and  
11 approved by the department shall be eligible for annual  
12 reimbursement equal to 75% of net expenses incurred in the  
13 adoption or revision of ordinances or regulations and other  
14 actual administrative, enforcement and implementation costs  
15 incurred in complying with this act and the applicable approved  
16 plans for the first five years after adoption of plans and  
17 approval by the department.

18 (g) Notwithstanding the grant and reimbursement limitations  
19 in subsections (a) and (f), where implementation and maintenance  
20 of the plans and other requirements of this act cannot be  
21 sustained by funding generated by water resource authorities,  
22 the Commonwealth may supplement funding through payments not to  
23 exceed 75% of allowable costs.

24 Section 609. Waiver of use of grant and loan funds.

25 A municipality, county or authority receiving grants or loans  
26 from the Commonwealth or its agencies for the construction or  
27 repair of any storm water BMP or flood control projects where  
28 the Commonwealth's funds are restricted from paying for the  
29 acquisition of property, a right-of-way or property removal or  
30 demolition necessary for the completion of a project may receive

1 a waiver to spend up to 5% of the grant or loan for these  
2 activities upon the approval of the appropriate Commonwealth  
3 agency.

4 CHAPTER 7

5 MISCELLANEOUS PROVISIONS

6 Section 701. Repeals.

7 (a) Intent.--The General Assembly declares that the repeal  
8 under subsection (b) is necessary to effectuate the addition of  
9 this act.

10 (b) Provision.--Sections 9(b) and 14(b) of the act of  
11 October 4, 1978 (P.L.864, No.167), known as the Storm Water  
12 Management Act, are repealed.

13 (c) General.--All other acts and parts of acts are repealed  
14 insofar as they are inconsistent with this act.

15 Section 702. Effective date.

16 This act shall take effect in 60 days.