

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1390 Session of
2009

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YOUNGBLOOD, YUDICHAK AND BRADFORD, APRIL 29, 2009

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, DECEMBER 15, 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.

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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~~ SHALL extend ←
6 the deadline under subsection (b) for preparation of a
7 comprehensive storm water management plan, if upon application
8 by such counties for grants and reimbursements authorized under
9 section 608(a) to meet the requirements of this chapter, the
10 department determines that such grants and reimbursements are
11 not 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~~ 18 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 THE DEPARTMENT MAY EXTEND THE DEADLINE SIX MONTHS FOR COMPLIANCE
7 WITH THIS SECTION UPON REQUEST BASED UPON A DEMONSTRATION OF
8 NEED.

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

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

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

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

28 (3) If two-thirds of the municipalities, representing at
29 least 51% of the population within the watershed, through
30 adoption of resolutions of their governing bodies, request



1 that the county or counties in the watershed assume
2 responsibility for implementation of the plan, then the
3 county or counties shall meet with the municipalities to
4 develop a plan of implementation, to be adopted within 12
5 months. THE FOLLOWING SHALL APPLY: ←

6 (I) IF THE COUNTY OR COUNTIES AND MUNICIPALITIES DO
7 NOT ADOPT A PLAN OF IMPLEMENTATION AFTER 12 MONTHS, THE
8 DEPARTMENT MAY CONVENE A THREE-PERSON PANEL TO BE
9 COMPRISED OF ONE REPRESENTATIVE OR DESIGNEE APPOINTED BY
10 THE DEPARTMENT, ONE REPRESENTATIVE OR DESIGNEE APPOINTED
11 BY THE COUNTY OR COUNTIES AND ONE REPRESENTATIVE OR
12 DESIGNEE APPOINTED BY THE GROUP OF MUNICIPALITIES. THE
13 COUNTY OR COUNTIES AND MUNICIPALITIES SHALL HAVE 30 DAYS
14 FROM THE DATE THE DEPARTMENT CONVENES THE PANEL TO SELECT
15 THEIR REPRESENTATIVE OR DESIGNEE.

16 (II) THE DEPARTMENT SHALL OVERSEE THE PANEL'S
17 COMPLETION OF THE IMPLEMENTATION PLAN, WHICH SHALL BE
18 ADOPTED WITHIN SIX MONTHS FROM THE PANEL'S FIRST MEETING.
19 THE FIRST MEETING OF THE PANEL SHALL BE HELD NO LATER
20 THAN 45 DAYS FROM THE DATE THE PANEL IS CONVENED.

21 (III) IF EITHER THE COUNTY OR MUNICIPALITIES FAIL TO
22 APPOINT A REPRESENTATIVE OR DESIGNEE, THE DEPARTMENT
23 SHALL COMPLETE THE PLAN OF IMPLEMENTATION IN COOPERATION
24 WITH ANY TIMELY APPOINTED REPRESENTATIVE OR DESIGNEE. IF
25 THERE ARE NO TIMELY APPOINTED REPRESENTATIVES OR
26 DESIGNEES FROM THE COUNTY OR MUNICIPALITIES, THE
27 DEPARTMENT SHALL COMPLETE THE PLAN OF IMPLEMENTATION.

28 (IV) FAILURE OF THE COUNTY OR MUNICIPALITIES TO
29 COMPLY WITH THE FINAL PLAN OF IMPLEMENTATION DEVELOPED IN
30 ACCORDANCE WITH THIS SUBSECTION CONSTITUTES A VIOLATION

1 OF THIS ACT.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) Any person may institute an action in mandamus to
30 compel a municipality to adopt implementing ordinances and to

1 implement a comprehensive storm water management plan and
2 ordinances in accordance with the Storm Water Management Act
3 and this act.

4 (2) The county or the department may utilize
5 administrative remedies, including administrative orders, or
6 may institute an action in mandamus to compel a municipality
7 to adopt ordinances or to implement a comprehensive storm
8 water management plan in accordance with the Storm Water
9 Management Act and this act.

10 (3) When action by the county, the department or any
11 person is required to compel a municipality to adopt
12 ordinances or to implement a comprehensive storm water
13 management plan, the department shall not provide grants or
14 reimbursements to the municipality for the associated costs.

15 (b) Costs and fees.--The costs, attorney fees,
16 administrative fees and other expenses associated with
17 proceedings under this section shall be recoverable from the
18 violator.

19 CHAPTER 4

20 INTEGRATED WATER RESOURCES MANAGEMENT

21 PLANNING AND PROCEDURE

22 Section 401. Water resources management coordination and
23 integration.

24 (a) Submitting agency.--A county or multiple counties may
25 elect to develop integrated water resources management plans. If
26 a county or counties have not provided notice to the department
27 of the intention to develop an integrated water resources
28 management plan, then multiple municipalities or water resources
29 management authorities located in such counties may elect to
30 develop integrated water resources management plans in

1 accordance with this act, beginning one year from the effective
2 date of this act.

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

8 (1) Existence of critical water planning areas.

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

12 (3) Flooding history.

13 (4) Special protection watersheds.

14 (5) Current or projected population density.

15 (6) Current or projected rate of development.

16 (7) Percent of impervious cover.

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

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

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

24 (3) The Clean Streams Law.

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

27 (5) The Storm Water Management Act.

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

30 (7) The act of January 24, 1966 (1965 P.L.1535, No.537),

known as the Pennsylvania Sewage Facilities Act.

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

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

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

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

(12) The Municipalities Planning Code.

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

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

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

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

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

Section 402. Integrated water resources management planning process.

(a) Boundaries.--Integrated water resource management plans shall be based upon the boundaries described in plans developed in accordance with section 401(b), unless an alternate

1 watershed-based planning area is approved by the department for
2 good cause shown.

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

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

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

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

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

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

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

8 (i) Section 401(c).

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

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

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

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

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

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

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

27 (3) If the department determines that the proposed
28 integrated water resources management plan will not meet the
29 requirements of this act, the department will disapprove the
30 plan in writing, which writing shall identify the basis for

disapproval.

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

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

Section 403. Integrated water resources management plan requirements.

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

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

(2) Federal lands shall be included in the integrated water resources management plan in consultation with the United States Department of the Interior.

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

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

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

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

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

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

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

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

7 (4) Estimate current and future water demands.

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

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

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

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

29 (9) Project future land-use changes over a ten-year
30 period based on population estimates, anticipated

development, planning and zoning requirements, economic considerations and public infrastructure.

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

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

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

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

(14) Identify and evaluate source water protection alternatives.

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

(16) Present selected financing methods and priorities.

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

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

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

(20) Provide model ordinances for plan implementation.

(c) Additional issues.--The integrated water resources management plans may address additional issues, including the

1 following:

2 (1) Preventing increased flood stages in streams.

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

7 (3) Improving groundwater recharge.

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

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

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

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

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


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

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

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

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

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

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

29 (I) IF THE COUNTY OR COUNTIES AND MUNICIPALITIES DO
30 NOT ADOPT A PLAN OF IMPLEMENTATION AFTER 12 MONTHS, THE

1 DEPARTMENT MAY CONVENE A THREE-PERSON PANEL TO BE
2 COMPRISED OF ONE REPRESENTATIVE OR DESIGNEE APPOINTED BY
3 THE DEPARTMENT, ONE REPRESENTATIVE OR DESIGNEE APPOINTED
4 BY THE COUNTY OR COUNTIES AND ONE REPRESENTATIVE OR
5 DESIGNEE APPOINTED BY THE GROUP OF MUNICIPALITIES. THE
6 COUNTY OR COUNTIES AND MUNICIPALITIES SHALL HAVE 30 DAYS
7 FROM THE DATE THE DEPARTMENT CONVENES THE PANEL TO SELECT
8 THEIR REPRESENTATIVE OR DESIGNEE.

9 (II) THE DEPARTMENT SHALL OVERSEE THE PANEL'S
10 COMPLETION OF THE IMPLEMENTATION PLAN, WHICH SHALL BE
11 ADOPTED WITHIN SIX MONTHS FROM THE PANEL'S FIRST MEETING.
12 THE FIRST MEETING OF THE PANEL SHALL BE HELD NO LATER
13 THAN 45 DAYS FROM THE DATE THE PANEL IS CONVENED.

14 (III) IF EITHER THE COUNTY OR MUNICIPALITIES FAIL TO
15 APPOINT A REPRESENTATIVE OR DESIGNEE, THE DEPARTMENT
16 SHALL COMPLETE THE PLAN OF IMPLEMENTATION IN COOPERATION
17 WITH ANY TIMELY APPOINTED REPRESENTATIVE OR DESIGNEE. IF
18 THERE ARE NO TIMELY APPOINTED REPRESENTATIVES OR
19 DESIGNEES FROM THE COUNTY OR MUNICIPALITIES, THE
20 DEPARTMENT SHALL COMPLETE THE PLAN OF IMPLEMENTATION.

21 (IV) FAILURE OF THE COUNTY OR MUNICIPALITIES TO COMPLY
22 WITH THE FINAL PLAN OF IMPLEMENTATION DEVELOPED IN ACCORDANCE
23 WITH THIS SUBSECTION CONSTITUTES A VIOLATION OF THIS ACT.

24 (c) Development of model ordinances.--Within 180 days of the
25 effective date of this section, the department will develop a
26 set of model ordinances, including a specific model integrated
27 water resources management ordinance, that can be used as a
28 guide by local governments to adopt regulations designed to
29 implement their integrated water resources management plan.

30 (d) Waiver.--The implementing ordinances and regulations

1 shall not contain a waiver provision except for those waivers
2 included in the model ordinance in the adopted and approved
3 integrated water resources management plan.

4 (e) Permits, approvals or grants.--The department, other
5 Commonwealth departments and agencies and county and municipal
6 governments and agencies shall consider and shall make decisions
7 with respect to issuance of permits, approvals or grants that
8 are generally consistent with integrated water resources
9 management plans adopted under this act.

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

18 (g) County implementation.--Where the responsible entity
19 fails to timely implement the approved and adopted integrated
20 water resources management plan, the county may implement the
21 approved integrated water resources management plan.

22 Section 405. Water resources management corridors.

23 (a) Additional limitations.--Integrated water resources
24 management plans may establish water resources management
25 corridors to provide additional limitations on activities and
26 development for protection of waters of this Commonwealth, and
27 in the interest of public health and safety, those designated as
28 special protection under the department's rules and regulations,
29 critical riparian areas, including minimum riparian buffers,
30 wetlands, critical habitat areas and floodplain management

1 areas.

2 (b) Protection of corridors.--The submitting agency shall
3 ensure that water resources management corridors are protected
4 through acquisition, easements, trusts or other appropriate
5 legal instruments that guarantee forested buffering, building
6 setbacks and reasonable and appropriate public access.

7 (c) Adjacent watersheds.--Development of integrated water
8 resources management plans established for adjacent watersheds,
9 which contain water resources management corridors, shall be
10 coordinated by submitting agencies to ensure consistency among
11 water resources management corridors.

12 Section 406. Failure of municipalities to adopt implementing
13 ordinances.

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

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

20 (2) The county or department may utilize administrative
21 remedies, including administrative orders, or may institute
22 an action in mandamus to compel a municipality to adopt
23 ordinances or to implement an integrated water resources
24 management plan in accordance with this act.

25 (3) When action by the county or department or any
26 person is required to compel a municipality to adopt
27 ordinances or to implement an integrated water resources
28 management plan, the department shall not provide grants or
29 reimbursements to the municipality for the associated costs.

30 (b) Costs and fees.--The costs, attorney fees and

1 administrative fees and other expenses associated with
2 proceedings under this section shall be recoverable from the
3 violator.

4 CHAPTER 5

5 WATER RESOURCES MANAGEMENT AUTHORITIES

6 Section 501. Water resources management authorities.

7 (a) Authorities.--A county or multiple counties may elect to
8 create a water resources management authority WHERE THERE IS NO
9 AUTHORITY CREATED PURSUANT TO 53 PA.C.S. CH. 56 (RELATING TO
10 MUNICIPAL AUTHORITIES) WITHIN THE JURISDICTION OR EXPAND THE
11 SCOPE OF AN EXISTING AUTHORITY to undertake powers and duties as
12 may be delegated by the incorporating municipality pursuant to
13 this act. If a county or counties have not provided notice to
14 the department of the intention to create a water resources
15 management authority OR EXPAND THE SCOPE OF AN EXISTING
16 AUTHORITY IN ACCORDANCE WITH THIS ACT, multiple municipalities
17 located in a county or counties may create a water resources
18 management authority OR EXPAND THE SCOPE OF AN EXISTING
19 AUTHORITY in accordance with this act, beginning one year from
20 the effective date of this section.

21 (b) Creation OR EXPANSION of water resources management
22 authorities.--A county or multiple counties or multiple
23 municipalities which have assumed or plan to assume
24 responsibility for the development, implementation and
25 administration of comprehensive storm water management plans or
26 an integrated water resources management plan shall have the
27 right to incorporate as a water resources management authority
28 pursuant to 53 Pa.C.S. Ch. 56 ~~(relating to municipal~~
29 ~~authorities)~~ for the purposes set forth under 53 Pa.C.S. § 5607
30 (relating to purposes and powers) relating to projects of the

1 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

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

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

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

(2) Collect delinquent fees in accordance with the act 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.