

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1395

Session of
1987

INTRODUCED BY MICHLOVIC, GEORGE, MANDERINO, LEVDANSKY, FREEMAN,
ARGALL, RYBAK, KUKOVICH, HUGHES, TRELLO, PISTELLA, SHOWERS,
LASHINGER, FOX, RITTER, MELIO, ARTY, LUCYK, RAYMOND, HAYDEN,
JOSEPHS AND BELARDI, MAY 26, 1987

AS AMENDED, COMMITTEE ON CONSERVATION, HOUSE OF REPRESENTATIVES,
MARCH 14, 1988

AN ACT

1 ~~Amending the act of October 15, 1980 (P.L.950, No.164), entitled~~ <—
2 ~~"A supplement to the act of April 9, 1929 (P.L.177, No.175),~~
3 ~~entitled 'An act providing for and reorganizing the conduct~~
4 ~~of the executive and administrative work of the Commonwealth~~
5 ~~by the Executive Department thereof and the administrative~~
6 ~~departments, boards, commissions, and officers thereof,~~
7 ~~including the boards of trustees of State Normal Schools, or~~
8 ~~Teachers Colleges; abolishing, creating, reorganizing or~~
9 ~~authorizing the reorganization of certain administrative~~
10 ~~departments, boards, and commissions; defining the powers and~~
11 ~~duties of the Governor and other executive and administrative~~
12 ~~officers, and of the several administrative departments,~~
13 ~~boards, commissions, and officers; fixing the salaries of the~~
14 ~~Governor, Lieutenant Governor, and certain other executive~~
15 ~~and administrative officers; providing for the appointment of~~
16 ~~certain administrative officers, and of all deputies and~~
17 ~~other assistants and employes in certain departments, boards,~~
18 ~~and commissions; and prescribing the manner in which the~~
19 ~~number and compensation of the deputies and all other~~
20 ~~assistants and employes of certain departments, boards and~~
21 ~~commissions shall be determined,' implementing the addition~~
22 ~~of section 4.1 to Article IV of the Constitution of~~
23 ~~Pennsylvania; establishing the Office of Attorney General~~
24 ~~elected by the citizens and setting forth powers and duties~~
25 ~~of the Attorney General; creating an Office of General~~
26 ~~Counsel and providing for legal services for Commonwealth~~
27 ~~agencies; transferring, reorganizing or reconstituting~~
28 ~~certain boards, commissions and agencies; placing certain~~
29 ~~duties upon the courts and district attorneys; repealing~~
30 ~~certain acts and parts of acts and making appropriations,"~~
31 ~~providing for a Protector General to enforce the~~

~~environmental laws of this Commonwealth; providing for his powers and duties; and making an appropriation.~~

~~The General Assembly hereby finds that:~~

~~(1) Adequate law enforcement under this Commonwealth's police power statutes has been grossly deficient.~~

~~(2) Effective enforcement of such statutes is absolutely material for the protection of the public health, safety and welfare and for the vindication of the rights of all Pennsylvanians pursuant to section 27 of Article I of the Constitution of Pennsylvania.~~

~~(3) Deficient and ineffective enforcement of such statutes has created numerous immediate threats to the public health, safety and welfare and a state of public health emergency in this Commonwealth.~~

AMENDING THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), ENTITLED

<—

"AN ACT PROVIDING FOR AND REORGANIZING THE CONDUCT OF THE EXECUTIVE AND ADMINISTRATIVE WORK OF THE COMMONWEALTH BY THE EXECUTIVE DEPARTMENT THEREOF AND THE ADMINISTRATIVE DEPARTMENTS, BOARDS, COMMISSIONS, AND OFFICERS THEREOF, INCLUDING THE BOARDS OF TRUSTEES OF STATE NORMAL SCHOOLS, OR TEACHERS COLLEGES; ABOLISHING, CREATING, REORGANIZING OR AUTHORIZING THE REORGANIZATION OF CERTAIN ADMINISTRATIVE DEPARTMENTS, BOARDS, AND COMMISSIONS; DEFINING THE POWERS AND DUTIES OF THE GOVERNOR AND OTHER EXECUTIVE AND ADMINISTRATIVE OFFICERS, AND OF THE SEVERAL ADMINISTRATIVE DEPARTMENTS, BOARDS, COMMISSIONS, AND OFFICERS; FIXING THE SALARIES OF THE GOVERNOR, LIEUTENANT GOVERNOR, AND CERTAIN OTHER EXECUTIVE AND ADMINISTRATIVE OFFICERS; PROVIDING FOR THE APPOINTMENT OF CERTAIN ADMINISTRATIVE OFFICERS, AND OF ALL DEPUTIES AND OTHER ASSISTANTS AND EMPLOYES IN CERTAIN DEPARTMENTS, BOARDS,

1 AND COMMISSIONS; AND PRESCRIBING THE MANNER IN WHICH THE
2 NUMBER AND COMPENSATION OF THE DEPUTIES AND ALL OTHER
3 ASSISTANTS AND EMPLOYES OF CERTAIN DEPARTMENTS, BOARDS AND
4 COMMISSIONS SHALL BE DETERMINED," FURTHER PROVIDING FOR
5 ENFORCEMENT AND FOR THE RESOLUTION OF CERTAIN COMPLAINTS;
6 MAKING A REPEAL; AND MAKING AN APPROPRIATION.

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

9 ~~Section 1. Section 204 of the act of October 15, 1980~~ <—
10 ~~(P.L.950, No.164), known as the Commonwealth Attorneys Act, is~~
11 ~~amended by adding a subsection to read:~~

12 ~~Section 204. Legal advice and civil matters.~~

13 * * *

14 ~~(c.1) Environmental protection. Any other provision of law~~
15 ~~to the contrary notwithstanding, the Protector General of the~~
16 ~~Department of Environmental Resources shall represent the~~
17 ~~Commonwealth with respect to all litigation pursuant to such~~
18 ~~statutes as the Department of Environmental Resources is charged~~
19 ~~to enforce, subject to the right of the Attorney General to~~
20 ~~intervene in behalf of the Commonwealth as the interests of~~
21 ~~justice may indicate. The Protector General shall, after~~
22 ~~investigation and upon his own motion, initiate such prosecution~~
23 ~~or enforcement action under the environmental protection~~
24 ~~statutes of this Commonwealth as he deems appropriate.~~

25 * * *

26 ~~Section 2. The act is amended by adding a section to read:~~
27 ~~Section 404. Protector General for the Department of~~
28 ~~Environmental Resources.~~

29 ~~(a) Establishment; powers and duties. There is hereby~~
30 ~~established in the Department of Environmental Resources the~~

1 ~~Office of Protector General. The Office of Protector General~~
2 ~~shall be an autonomous and independent office and shall not be~~
3 ~~subject to the jurisdiction or supervision of any other person~~
4 ~~or office. The powers and duties of the Office of Protector~~
5 ~~General shall be to enforce vigorously and effectively all laws~~
6 ~~of this Commonwealth pertaining to environmental protection and~~
7 ~~to provide such other services to the Department of~~
8 ~~Environmental Resources as specified in this chapter to the~~
9 ~~extent not inconsistent with this section. The Protector General~~
10 ~~shall refer any evidence of criminal offenses to the Attorney~~
11 ~~General.~~

12 ~~(b) Appointment. The Protector General shall be appointed~~
13 ~~by the Governor upon the advice and consent of the Senate, to~~
14 ~~serve a fixed term of five years.~~

15 ~~(c) Removal. The Protector General shall not be removed~~
16 ~~from office during his term except by resignation or by reason~~
17 ~~of his conviction of misbehavior in office or of any infamous~~
18 ~~crime.~~

19 ~~(d) Compensation. The compensation of the Protector General~~
20 ~~shall be \$55,000 per annum and shall not be diminished during~~
21 ~~the term of office.~~

22 ~~(e) Deputies and assistants. The Protector General shall~~
23 ~~appoint such deputy and assistant protectors general as he deems~~
24 ~~appropriate, and such deputy and assistant protectors general~~
25 ~~shall serve at the sole pleasure of the Protector General.~~

26 ~~(f) Investigations. The Protector General shall appoint~~
27 ~~such investigators and such other staff as he deems appropriate~~
28 ~~to carry out the investigative duties of his office and these~~
29 ~~investigators shall serve at the sole pleasure of the Protector~~
30 ~~General. Investigators, upon the order of the Protector General,~~

~~shall immediately initiate an investigation whenever the Protector General is presented with information which gives him reason to believe that the Department of Environmental Resources has failed to take appropriate action on any violation of any requirement of the environmental statutes of this Commonwealth or of the United States or any condition of any permit issued under those acts or any order of the department.~~

~~(g) Environmental Strike Force.~~

~~(1) The Protector General shall appoint an Environmental Strike Force consisting of such attorneys and such other staff as he deems appropriate to carry out the enforcement and litigative duties of his office and these appointees shall serve at the sole pleasure of the Protector General. The Environmental Strike Force, upon the order of the Protector General, shall:~~

~~(i) Immediately initiate such prosecution or enforcement action under the environmental protection statutes of this Commonwealth.~~

~~(ii) Immediately initiate a vigorous investigation to determine the source of hazardous wastes contained in abandoned hazardous waste sites which may pose an eminent danger to public health and the environment.~~

~~(iii) Upon the determination by the Protector General that a responsible party, as defined in subsection (h), has been identified pursuant to subparagraph (ii), immediately initiate litigation against such responsible party to recover the cost of the remediation of an abandoned hazardous waste site. All money collected by the Protector General pursuant to this subparagraph shall be deposited into the Hazardous Waste~~

~~Abandoned Site Cleanup and Compensation Fund provided for in Article VII A of the act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste Management Act."~~

~~(2) There is hereby established an Interagency Environmental Task Force, the purpose of which is to advise and assist the Environmental Strike Force in the performance of its duties and to ensure that the proper environmental laws are enforced in a coordinated effect. The Protector General shall serve as the chairman of the Interagency Environmental Task Force. The Interagency Environmental Task Force shall consist of one representative from each of the following Commonwealth departments and agencies, to be appointed by the chief executive officer of the department or agency:~~

~~(i) The Department of Environmental Resources.~~

~~(ii) The Department of Health.~~

~~(iii) The Department of Labor and Industry.~~

~~(iv) The Pennsylvania State Police.~~

~~(v) The Fish Commission.~~

~~(vi) The Pennsylvania Emergency Management Agency.~~

~~(vii) The Office of Attorney General.~~

~~(viii) Any other Commonwealth departments or agencies deemed appropriate by the Protector General.~~

~~(h) Responsible party litigation. For the purpose of carrying out the Protector General's responsibilities pursuant to subsection (g), the term "responsible party" shall have the following meaning:~~

~~(1) Responsibility. Any person who causes or threatens to cause pollution, as defined in the Solid Waste Management Act, from an active or abandoned hazardous waste site is~~

~~responsible for such pollution if such person:~~

~~(i) Owned or operated the site:~~

~~(A) when the hazardous waste was placed or came to be located in or on the site;~~

~~(B) when the hazardous waste was located in or on the site, but before the pollution occurred; or~~

~~(C) during the time the pollution occurred or was threatened to occur.~~

~~(ii) Generated, owned or possessed the hazardous waste and arranged by contract, agreement or otherwise for the disposal, storage, treatment or transport for disposal, storage or treatment of the hazardous waste.~~

~~(iii) Generated, owned or possessed the hazardous waste and arranged for the unlawful disposal, storage, treatment or transport for disposal, storage or treatment of the hazardous waste.~~

~~(iv) Accepted any hazardous waste for transport to disposal or treatment facilities, incineration vessels or sites selected by such person from which pollution occurs or is threatened to occur which causes the incurrence of remediation costs.~~

~~(2) Owners. An owner of real property is responsible for the occurrence of pollution or the threatened occurrence of pollution from a hazardous waste site in or on such property unless the owner can demonstrate that all of the following are true:~~

~~(i) The owner acquired the real property on which the hazardous waste site is located after the disposal or placement of the hazardous waste on, in or at the hazardous waste site.~~

~~(ii) The owner has exercised due care with respect to such hazardous waste, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances.~~

~~(iii) The owner took precautions against foreseeable acts or omissions of any third party and the consequences that could foreseeably result from such acts or omissions.~~

~~(iv) If the owner obtained actual knowledge of the occurrence of pollution or the threatened occurrence of pollution of hazardous waste at the hazardous waste site when the owner was in possession of the real property, the owner did not subsequently transfer ownership of the real property to another person without disclosing such knowledge.~~

~~(v) The owner has not, by act or omission, caused or contributed to the occurrence of pollution or the threatened occurrence of pollution of the hazardous waste which is the subject of the remedial action relating to the hazardous waste site.~~

~~(vi) The owner meets one of these requirements:~~

~~(A) at the time the owner acquired the real property, he did not know and had no reason to know that any hazardous waste which is the subject of the occurrence of the pollution or the threatened occurrence of pollution, was disposed of on, in or at the hazardous waste site. For the purposes of this requirement, the owner must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property~~

~~consistent with good commercial or customary practice in an effort to minimize liability. The trier of fact take into account any specialized knowledge or experience on the part of the owner, the relationship of the purchase price to the value of the property if unpolluted, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of pollution at the property, and the ability to detect such pollution by appropriate inspection;~~

~~(B) the owner is a government entity which acquired the property by escheat, or through any other involuntary transfer or acquisition, or through the exercise of eminent domain authority by purchase or condemnation; or~~

~~(C) the owner acquired the property by inheritance or bequest.~~

~~(vii) The only basis of liability for the owner is ownership of the land.~~

~~(3) Employees and employers. When a person who is responsible for the occurrence of pollution or the threatened occurrence of pollution, as provided for in paragraph (1), is an employee who is acting in the scope of his employment:~~

~~(i) The employee is subject to liability under this section only if his conduct with respect to the hazardous waste was negligent under circumstances in which he knew that the waste was hazardous and that his conduct, if negligent, could result in serious harm to the environment or public health and safety.~~

~~(ii) His employer shall be considered responsible~~

~~for the occurrence of pollution or the threatened
occurrence of pollution and is subject to liability under
this section regardless of the degree of care exercised
by his employee.~~

~~(i) Scope of liability.~~

~~(1) General rule. Any person who is responsible for the
occurrence of pollution or the threatened occurrence of
pollution pursuant to subsection (h) shall be strictly
liable, jointly or severally, for all costs related to such
occurrence of pollution or threatened occurrence of
pollution, including, but not limited to, the following
costs:~~

~~(i) all reasonable and necessary costs of removal or
remedial action incurred by the Commonwealth, a political
subdivision of the Commonwealth or the Federal
Government;~~

~~(ii) any other reasonable and necessary costs of
abatement incurred by any other person;~~

~~(iii) damages for injury to, destruction of or loss
of natural resources within this Commonwealth, or
belonging to, managed by, controlled by or appertaining
to the Commonwealth, the United States or a political
subdivision of the Commonwealth, including the reasonable
costs of assessing such injury, destruction or loss
resulting from such occurrence of pollution or threatened
occurrence of pollution; and~~

~~(iv) the costs of any health assessment or health
effects study and the costs of any medical expenses
incurred proximately resulting from the occurrence of
pollution or the threatened occurrence of pollution.~~

~~(2) Contractor liability. Any person or company who has entered into a contract with the department to assist the department in the abatement of pollution shall not be held liable pursuant to this act for any occurrence of pollution arising out of performance of the contract, as long as the occurrence of pollution is not caused by the contractor's negligence.~~

~~(3) Commonwealth employee liability. Persons employed by the Commonwealth shall not be held liable for any occurrence of pollution, or any other damages incurred, as a result of actions or omissions occurring when acting in their official capacity.~~

~~(j) Defenses to liability.~~

~~(1) General rule. There shall be no liability under subsections (h) and (i) for a person otherwise liable who can establish by clear and convincing evidence that the occurrence of pollution or the threatened occurrence of pollution and the damages resulting therefrom were caused solely by one or more of the following:~~

~~(i) An act of God.~~

~~(ii) An act of war.~~

~~(iii) An act or omission of a third party other than an employee or agent of the responsible person, if the responsible person establishes by clear and convincing evidence that:~~

~~(A) he exercised due care with respect to the hazardous waste concerned, taking into consideration the characteristics of such hazardous waste, in light of all relevant facts and circumstances; and~~

~~(B) he took precautions against foreseeable acts~~

1 ~~or omissions of any such third party and the~~
2 ~~consequences that could foreseeably result from such~~
3 ~~acts or omissions.~~

4 ~~(2) Rendering care or advice. Except as provided in~~
5 ~~paragraph (3), no person shall be liable under this act for~~
6 ~~costs or damages as a result of actions taken or omitted in~~
7 ~~the course of rendering care, assistance or advice in~~
8 ~~accordance with the act of July 7, 1980 (P.L.380, No.97),~~
9 ~~known as the Solid Waste Management Act, or at the direction~~
10 ~~of the department with respect to an incident creating a~~
11 ~~danger to public health or welfare or the environment as a~~
12 ~~result of any occurrence of pollution or the threat thereof.~~
13 ~~This paragraph shall not preclude liability for costs or~~
14 ~~damages as the result of negligence on the part of such~~
15 ~~person.~~

16 ~~(3) State agencies and local governments. No State~~
17 ~~agency or local government shall be liable under this act for~~
18 ~~costs or damages as a result of actions taken by such State~~
19 ~~agency or local government in response to the occurrence of~~
20 ~~pollution or the threat thereof generated by or from a~~
21 ~~hazardous waste site owned by another person. This paragraph~~
22 ~~shall not preclude liability for costs or damages as a result~~
23 ~~of gross negligence or intentional misconduct by the State~~
24 ~~agency or local government. For the purpose of the preceding~~
25 ~~sentence, reckless, willful or wanton misconduct shall~~
26 ~~constitute gross negligence.~~

27 ~~(4) Burden of proof for defenses. Any person claiming a~~
28 ~~defense provided in this section has the burden to prove all~~
29 ~~elements of the defense by clear and convincing evidence.~~

30 ~~(k) Action by Protector General. In the event any suit,~~

~~petition, complaint or appeal relevant to the permitting of waste management operations is filed, the Protector General shall review such suit, petition, complaint or appeal and render a final decision within 60 days of its filing.~~

~~(l) Permit delays. If a person seeking a permit relating to solid waste believes that the permitting process is being unreasonably delayed, he shall be entitled to appeal to the Protector General who shall be required to render all decisions relevant to the appeal within 60 days of its filing.~~

~~(m) Transfer of personnel, appropriations, records, equipment, etc. All personnel, allocations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Office of Protector General are hereby transferred to the Office of the Protector General with the same force and effect as if the appropriations had been made to and said items had been the property of the Office of Protector General in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Office of the Protector General.~~

~~(n) Compensation of employees. The secretarial, clerical and other employees of the Protector General and their successors whose positions on the effective date of this section are under the classified service provisions of the act of August 5, 1941 (P.L. 752, No. 286), known as the "Civil Service Act," shall continue under such provisions. The compensation of all other persons appointed shall be determined by the Protector General and shall be consistent with the standards established by the Executive Board.~~

~~(o) Funding.~~

~~(1) The costs of all activities of the Office of Protector General shall be appropriated from the General Fund.~~

~~(2) Annually, at the time and in accord with the procedures otherwise established by law for the General Fund, the Protector General shall submit a proposed budget for the operation of the office. Such proposed budget shall be submitted to the Governor and the General Assembly for consideration in accordance with the procedures for appropriations from the General Fund as provided in sections 610 through 620 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." It shall be unlawful for the State Treasurer to honor any requisition for the expenditure of any moneys out of the General Fund by the Protector General for any purpose in excess of the amounts appropriated by the General Assembly.~~

~~(3) Moneys appropriated from the General Fund shall be paid out of the fund upon warrant of the State Treasurer drawn after requisition by the Protector General.~~

~~(p) Initial nominee. The Governor shall, within 30 days from the date of final enactment of this section, submit to the Senate his nomination for the Protector General. In the event that the Governor so fails to do, the Attorney General shall appoint an acting Protector General until such time as the Governor submits his nominee and such nominee is confirmed to office by the Senate.~~

~~Section 3. Funding.~~

~~(a) Appropriation. The sum of \$2,000,000, or as much thereof as may be necessary, is hereby appropriated to the~~

1 ~~Department of Environmental Resources for the Office of the~~
2 ~~Protector General for the fiscal year July 1, 1987, to June 30,~~
3 ~~1988, to carry out the provisions of this act. This~~
4 ~~appropriation shall be a separate line item from any other State~~
5 ~~or Federal appropriation to the Department of Environmental~~
6 ~~Resources.~~

7 ~~(b) State fund transfer. In addition to the sum~~
8 ~~appropriated in subsection (a), any unexpended State fund~~
9 ~~allocation for the Office of General Counsel from the Department~~
10 ~~of Environmental Resources' General Government Operations 1987-~~
11 ~~1988 State line item shall be transferred to the State line item~~
12 ~~in subsection (a).~~

13 ~~(c) Federal fund transfer. Any unexpended Federal fund~~
14 ~~allocations for the Office of General Counsel from the~~
15 ~~Department of Environmental Resources' General Government~~
16 ~~Operations 1987-1988 Federal augmentation line items shall be~~
17 ~~transferred to appropriate Federal line items for the Office of~~
18 ~~Protector General which are hereby established.~~

19 ~~Section 4. Application of certain provisions.~~

20 ~~The provisions of sections 204(c.1) and 404 of the act of~~
21 ~~October 15, 1980 (P.L.950, No.164), known as the Commonwealth~~
22 ~~Attorneys Act, relating to the powers and duties of the~~
23 ~~Protector General and the transfer of personnel, appropriations,~~
24 ~~records and equipment, shall apply on the date upon which the~~
25 ~~Senate confirms the initial nominee of the Governor, or the date~~
26 ~~upon which the Attorney General appoints an acting Protector~~
27 ~~General as described in section 404(1), whichever occurs first.~~

28 ~~Section 5. Effective date.~~

29 ~~This act shall take effect in 60 days.~~

30 ~~SECTION 1. THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN <—~~

AS THE ADMINISTRATIVE CODE OF 1929, IS AMENDED BY ADDING
SECTIONS TO READ:

SECTION 1930-A. ENFORCEMENT.--(A) THE OFFICE OF CHIEF
COUNSEL SHALL HAVE THE POWER AND ITS DUTY SHALL BE TO PROVIDE
LEGAL SERVICES AS MAY BE NECESSARY OR APPROPRIATE FOR THE
EFFECTIVE ADMINISTRATION AND ENFORCEMENT OF THE ENVIRONMENTAL
LAWS OF THIS COMMONWEALTH.

(B) THE OFFICE OF CHIEF COUNSEL SHALL INCLUDE THE BUREAU OF
PROTECTOR GENERAL WHICH SHALL BE EMPOWERED TO INVESTIGATE
VIOLATIONS OF THE STATUTES ADMINISTERED BY THE DEPARTMENT, TO
INSTITUTE RESPONSIBLE PARTY LITIGATION AND OTHER ACTIONS UNDER
THE ACT OF (P.L. , NO.), KNOWN AS THE HAZARDOUS SITES
CLEANUP ACT, AND THE FEDERAL SUPERFUND ACT (PUBLIC LAW 96-510,
94 STAT. 2767) AND TO INITIATE OTHER APPROPRIATE ENFORCEMENT
ACTIONS. THE BUREAU OF PROTECTOR GENERAL SHALL INCLUDE THE
ENVIRONMENTAL INVESTIGATION SECTION, WHICH SHALL CONSIST OF
INVESTIGATORS AND AUDITORS TO ASSIST THE DEPARTMENT IN MATTERS
IN LITIGATION OR LIKELY TO RESULT IN ENFORCEMENT ACTIONS.

(C) IN ADDITION TO ANY OTHER REMEDIES PROVIDED FOR THE
ENFORCEMENT OF THE STATUTES ADMINISTERED BY THE DEPARTMENT, THE
DEPARTMENT SHALL HAVE THE AUTHORITY TO DENY ANY APPLICATION FOR
A PERMIT OR LICENSE, OR REVOKE ANY PERMIT OR LICENSE ISSUED
UNDER THOSE STATUTES, OF ANY PERSON WHO IS IN VIOLATION OF AN
ORDER ISSUED BY THE DEPARTMENT.

(D) IN ADDITION TO THE REMEDIES PROVIDED FOR THE ENFORCEMENT
OF THE STATUTES ADMINISTERED BY THE DEPARTMENT, THE DEPARTMENT
MAY ISSUE ORDERS REQUIRING THE CORRECTION OF ANY CONDITION
HARMFUL TO THE PUBLIC OR THE ENVIRONMENT WHICH RESULTS FROM
ACTIVITIES REGULATED BY THOSE STATUTES. THIS AUTHORITY SHALL
INCLUDE ORDERS FOR THE REPLACEMENT OF PUBLIC OR PRIVATE WATER

1 SUPPLIES WHICH HAVE BEEN DIMINISHED OR CONTAMINATED BY THE
2 REGULATED ACTIVITY.

3 (E) UNLESS A LARGER PENALTY IS PROVIDED, A PERSON WHO
4 VIOLATES ANY STATUTE ADMINISTERED BY THE DEPARTMENT SHALL BE
5 SUBJECT TO A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS
6 (\$10,000) A DAY FOR EACH DAY THE VIOLATION CONTINUES. IN SEEKING
7 ANY CIVIL PENALTY, THE DEPARTMENT MAY EITHER ASSESS THE PENALTY
8 OR INCLUDE IT AS A COUNT IN ANY COURT PROCEEDING. WHEN A PENALTY
9 IS ASSESSED, IT SHALL BE FINAL UNLESS APPEALED TO THE
10 ENVIRONMENTAL HEARING BOARD. A FINAL ASSESSMENT MAY BE FILED
11 WITH THE PROTHONOTARY IN ANY COUNTY IN WHICH THE PERSON ASSESSED
12 HAS REAL OR PERSONAL PROPERTY. UPON FILING, THE ASSESSMENT SHALL
13 CONSTITUTE A LIEN UPON THAT PROPERTY. A FINAL ASSESSMENT MAY BE
14 COLLECTED IN ANY MANNER AUTHORIZED BY LAW FOR THE COLLECTION OF
15 DEBTS.

16 (F) DEPARTMENT INSPECTORS AND OFFICIALS SHALL HAVE THE
17 AUTHORITY TO INITIATE PROSECUTIONS, INCLUDING THE ISSUANCE OF
18 CRIMINAL CITATIONS, UNDER ANY ENVIRONMENTAL LAW WHICH
19 ESTABLISHES CRIMINAL PENALTIES FOR VIOLATIONS.

20 (G) THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS TO
21 IMPLEMENT ANY STATUTE ADMINISTERED BY THE DEPARTMENT.

22 SECTION 1931-A. ENVIRONMENTAL OMBUDSMAN.--THE DEPARTMENT
23 SHALL ESTABLISH THE POSITION OF OMBUDSMAN WHO SHALL SERVE AS A
24 SINGLE POINT OF CONTACT WHERE ANY PERSON CAN TAKE A GRIEVANCE,
25 COMPLAINT OR PROBLEM AND RECEIVE AN OBJECTIVE REVIEW AND
26 RESOLUTION. THIS PERSON SHALL ALSO HAVE THE RESPONSIBILITY OF
27 ASSISTING THE GENERAL PUBLIC, THE REGULATED COMMUNITY AND
28 CITIZENS GROUPS WITH COMPLAINTS AND PROBLEMS AS WELL AS
29 PROVIDING ASSISTANCE TO THE PUBLIC AT LARGE BY CLOSING GAPS IN
30 INFORMATION. THE INDIVIDUAL SHALL OPERATE AND MAINTAIN A

1 CENTRALIZED COMPLAINT RESOLUTION AND DISPOSITION PROCESS FOR THE
2 DEPARTMENT.

3 SECTION 2. IN ADDITION TO ANY OTHER APPROPRIATIONS FOR THIS
4 PURPOSE, THE SUM OF \$1,000,000 IS HEREBY APPROPRIATED TO THE
5 DEPARTMENT OF ENVIRONMENTAL RESOURCES FOR THE FISCAL YEAR JULY
6 1, 1987, TO JUNE 30, 1988, TO CARRY OUT THE ENFORCEMENT
7 FUNCTIONS OF THIS ACT. THESE FUNDS ARE FOR THE PURPOSE OF
8 AUGMENTING THE ENFORCEMENT CAPABILITY OF THE DEPARTMENT, AND
9 SHALL BE APPORTIONED AS FOLLOWS:

10 (1) OFFICE OF CHIEF COUNSEL \$800,000

11 (2) ENVIRONMENTAL HEARING BOARD \$200,000

12 SECTION 3. THE APPROPRIATION TO THE PROTECTOR GENERAL IN THE
13 DEPARTMENT OF ENVIRONMENTAL RESOURCES IN SECTION 213 OF THE ACT
14 OF JULY 3, 1987 (P.L.459, NO.9A), KNOWN AS THE GENERAL
15 APPROPRIATION ACT OF 1987, IS REPEALED.

16 SECTION 4. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.