
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2230 Session of
2002

INTRODUCED BY HERSHEY, RUBLEY, GEORGE, S. H. SMITH, DeWEESE,
BENNINGHOFF, CAPPELLI, M. COHEN, CREIGHTON, DAILEY, FRANKEL,
GABIG, HALUSKA, HARHAI, HARPER, HENNESSEY, HERMAN, LEH,
MAITLAND, McGEEHAN, McILHATTAN, MUNDY, READSHAW, ROHRER,
ROSS, SCHRODER, SEMMEL, B. SMITH, SOLOBAY, STEIL,
R. STEVENSON, THOMAS, TIGUE, YUDICHAK, TRICH AND PIPPY,
JANUARY 24, 2002

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 24, 2002

AN ACT

- 1 Authorizing the establishment and administration of a Statewide
2 program to promote water conservation and the efficient use
3 of existing water resources; requiring a State Water Plan;
4 and imposing additional powers and duties on the Department
5 of Environmental Protection and the Environmental Hearing
6 Board.
- 7 Section 1. Short title.
- 8 Section 2. Definitions.
- 9 Section 3. Powers and duties of department.
- 10 Section 4. State Water Plan.
- 11 Section 5. Statewide Water Resources Advisory Committee.
- 12 Section 6. Registration, reporting and recordkeeping.
- 13 Section 7. Critical water planning areas.
- 14 Section 8. Voluntary water conservation.
- 15 Section 9. Grants.
- 16 Section 10. Public nuisances.
- 17 Section 11. Penalties and remedies.

1 Section 12. Existing rights and remedies preserved.

2 Section 13. Financial provisions.

3 Section 14. Effective date.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Water
8 Resources Conservation and Protection Act.

9 Section 2. Definitions.

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

13 "Conjunctive use." The use of two or more sources of water,
14 either in combination or as components of a single unit, to
15 achieve increased efficiency of use or to enhance conservation,
16 equitable distribution or management of water resources.

17 "Consume or consumptive use." To use, or the use of, water
18 so that through evaporation, transpiration, incorporation into a
19 product, diversion or any other means, some or all of the water
20 withdrawn from a water resource is not returned to the same
21 water resource at or upstream from the point of withdrawal
22 resulting in a diminution in quantity or quality of the water
23 resource.

24 "Critical water planning area." An area identified in an
25 updated State Water Plan under section 4 or designated by the
26 Department of Environmental Protection under section 3(15) where
27 water availability does not meet current or projected future
28 water resources needs.

29 "Department." The Department of Environmental Protection of
30 the Commonwealth.

1 "Discharge." The release of withdrawn or diverted water,
2 whether treated or untreated, to a water resource.

3 "Divert" or "diversion." To take or impound or the direct or
4 indirect taking or impoundment of water from any water resource
5 or to interfere, or the interference, with the prevailing
6 hydrologic regime, whether or not the water is returned to its
7 source, consumed, made to flow into another water resource or
8 discharged elsewhere. The term includes the transfer of water
9 through interconnections.

10 "Environmental Hearing Board." The board established under
11 the act of July 13, 1988 (P.L.530, No.94), known as the
12 Environmental Hearing Board Act.

13 "Environmental Quality Board." The board established under
14 section 1920-A of the act of April 9, 1929 (P.L.177, No.175),
15 known as The Administrative Code of 1929.

16 "Groundwater." Any water of underground streams, channels,
17 artesian basins, reservoirs, lakes and other occurrences of
18 water in and under the ground, whether percolating or otherwise.

19 "Local agency." Any municipality or any combination thereof
20 acting cooperatively or jointly under the laws of this
21 Commonwealth, county, county department of health or joint
22 county department of health.

23 "Major basin." The area drained by the Great Lakes and their
24 tributaries or by the Susquehanna River and Chesapeake Bay or by
25 one of the following major rivers and their respective
26 tributaries: Delaware River, Ohio River and Potomac River.

27 "Municipality." A city, borough, incorporated town, township
28 or home rule municipality.

29 "Nonwithdrawal use." Any reasonable use of water that is not
30 withdrawn. These uses include, but are not limited to,

1 recreation, navigation, energy production, fish and wildlife
2 habitat, the maintenance of the natural, scenic, historic or
3 aesthetic values of the environment and the uses protected under
4 the authority of the act of June 22, 1937 (P.L.1987, No.394),
5 known as The Clean Streams Law, and the Federal Water Pollution
6 Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.).

7 "Person." Any individual, partnership, association, company,
8 corporation, municipality, municipal authority, political
9 subdivision, receiver or trustee or any agency, department,
10 board, commission or authority of the Federal Government or of
11 the Commonwealth or any other legal entity which is recognized
12 by law as the subject of rights and duties. The term shall
13 include the officers, employees and agents of any individual,
14 partnership, association, company, corporation, municipality,
15 municipal authority, political subdivision, receiver or trustee
16 or any agency, department, board, commission or authority of the
17 Federal Government or of the Commonwealth or any other legal
18 entity.

19 "Public water supply agency." A community water system as
20 defined by the act of May 1, 1984 (P.L.206, No.43), known as the
21 Pennsylvania Safe Drinking Water Act, or any person subject to
22 the act of June 24, 1939 (P.L.842, No.365), referred to as the
23 Water Rights Law, or any successor act.

24 "Return flows" or "return of water." Any quantity of water,
25 without respect to its original source, that by any direct or
26 indirect means of discharge or dispersal is returned to a water
27 resource.

28 "River basin commission." A commission created by an
29 interstate compact and vested with the authority to develop
30 plans, policies or projects relating to the water resources or

1 to manage the water resources of a river basin.

2 "Safe yield." The amount of water that can be consumed from
3 a water resource without causing an adverse result, such as
4 long-term dewatering of an aquifer, induced potential health
5 threats, or impacts upon withdrawal or nonwithdrawal uses or
6 water quality.

7 "Secretary." The Secretary of Environmental Protection of
8 the Commonwealth.

9 "State Water Plan." An assessment of the water resources
10 prepared by the Department of Environmental Protection or its
11 predecessor agencies under this act, section 1904-A of the act
12 of April 9, 1929 (P.L.177, No.175), known as The Administrative
13 Code of 1929, sections 5 and 304 of the act of June 22, 1937
14 (P.L.987, No.394), known as The Clean Streams Law, or other
15 applicable law.

16 "Statewide Water Resources Advisory Committee." The
17 committee established under section 5.

18 "The Administrative Code of 1929." The act of April 9, 1929
19 (P.L.177, No.175), known as The Administrative Code of 1929.

20 "Water conservation practices." Those practices and
21 measures, which are designed to accomplish any or all of the
22 following:

23 (1) Reduce the demand for water.

24 (2) Improve efficiency in water use and reduce leakage,
25 losses and waste of water.

26 (3) Improve reuse and recycling of water.

27 (4) Increase the supply of water.

28 "Water resource." Any of the "waters of the Commonwealth" as
29 that term is defined by the act of June 22, 1937 (P.L.987,
30 No.394), known as The Clean Streams Law.

1 "Water Rights Act." The act of June 24, 1939 (P.L.842,
2 No.365), or its successor.

3 "Watershed organization." An entity incorporated under the
4 laws of this Commonwealth and established to promote local
5 watershed planning, protection and conservation efforts in an
6 identified watershed.

7 "Withdraw," "withdrawal" or "withdrawn." The removal or
8 taking of water from its natural location or course.

9 "Withdrawal use." Any reasonable use of water which is
10 withdrawn. These uses include, but are not limited to,
11 municipal, public, commercial, industrial and agricultural water
12 supply. The term includes the transfer of water through
13 interconnections.

14 Section 3. Powers and duties of department.

15 Powers and duties of department.--The department shall have
16 the power and its duty shall be to exercise all powers necessary
17 or appropriate to carry out and effectuate the provisions of
18 this act and the Water Rights Act, including, but not limited
19 to:

20 (1) Implement section 27 of Article I of the
21 Constitution of Pennsylvania.

22 (2) Administer and enforce the provisions of this act
23 and the Water Rights Act.

24 (3) Maintain a comprehensive water resources information
25 system, including, but not limited to:

26 (i) An inventory of all water resources, including
27 consideration for water quantity and quality.

28 (ii) A record of all cumulative water withdrawals,
29 diversions, consumptive uses, discharges and return flows
30 of 10,000 or more gallons of water per day from or to one

1 or more water resources.

2 (iii) An assessment of present and projected water
3 use and demand, including consumptive use.

4 (iv) Identification of low-flow characteristics,
5 safe yield, the capability of water resources to support
6 withdrawal and nonwithdrawal uses and the minimum stream
7 flows and groundwater levels necessary to ensure adequate
8 water quantity and quality for the protection of water
9 resources and ecology, aquatic organisms and other
10 environmental values.

11 (v) Assessment of water resources required to
12 support areas with important or unique natural, scenic,
13 historic, esthetic, environmental or recreational values.

14 (4) Require recordkeeping, metering, measuring,
15 monitoring, registration and reporting of such information as
16 necessary to administer and obtain compliance with this act
17 or the Water Rights Act.

18 (5) Make inspections, investigations and examinations,
19 exercise the right of entry, perform such tests or sampling
20 and require the production of such things as necessary to
21 determine compliance with or enforce this act or the Water
22 Rights Act.

23 (6) Provide water conservation education, technical
24 assistance and advice to persons subject to the provisions of
25 this act.

26 (7) Collect civil penalties and accept and administer
27 funds from any source to aid in carrying out this act or the
28 Water Rights Act.

29 (8) Issue orders, assess civil penalties and initiate
30 those proceedings as may be necessary and appropriate for the

1 enforcement of this act or the Water Rights Act.

2 (9) Cooperate and coordinate with river basin
3 commissions and Federal, interstate, State, local and public
4 water supply agencies and other public or private entities as
5 may be appropriate for efficient water resources planning and
6 to avoid duplicative requirements to which water users may be
7 subject.

8 (10) Enter into administrative agreements, at its
9 discretion, with river basin commissions or Federal,
10 interstate, State or local agencies as may be appropriate for
11 any of the following purposes:

12 (i) To facilitate the submission and coordinated
13 review of information related to water resources.

14 (ii) To avoid unnecessary duplication of
15 administrative or planning functions.

16 (iii) To provide for coordinated inspection,
17 monitoring and enforcement of applicable laws and
18 regulations.

19 (iv) To accept delegation of authority for the
20 regulation or management of water resources planning or
21 information collection.

22 (v) To coordinate the development of water resources
23 plans in critical water planning areas and to ensure
24 coordinated and effective response to water resources
25 shortages and drought emergencies.

26 (11) Enter into administrative agreements, at its
27 discretion, with river basin commissions or Federal,
28 interstate, State or local agencies as may be appropriate for
29 the purpose of delegating any of its authority under this
30 act. Any agency acting under a delegation agreement shall

1 have the same powers and duties otherwise vested in the
2 department to implement this act, to the extent delegated by
3 the agreement.

4 (12) Act as facilitator or contract for the services of
5 a facilitator in voluntary mediation proceedings for
6 settlement of disputes concerning consumptive use of water. A
7 representatives of all persons having an interest in the
8 water in controversy shall agree in writing to abide by any
9 settlement reached in mediation proceedings.

10 (13) Enter into contracts, including, but not limited
11 to, grants and other cooperative arrangements at its
12 discretion and under those terms and conditions as it may be
13 deemed appropriate with river basin commissions or Federal,
14 interstate, State or local agencies or with other persons in
15 support of implementation of its powers and duties under this
16 act. The department shall monitor and supervise activities
17 conducted under such agreements for consistency with the
18 department rules, regulations and policies.

19 (14) Receive financial and technical assistance from
20 Federal, interstate or State agencies or other public or
21 private entities where appropriate to do any and all things
22 necessary to implement the provisions of this act.

23 (15) Establish procedures for the filing and review of
24 petitions for the designation by the department, independent
25 of identification of such areas in the State Water Plan, of
26 critical water planning areas, after notice and opportunity
27 for comment from interested persons, including, but not
28 limited to the following:

29 (i) Minimum information necessary to support a
30 petition, including up-to-date reliable water resources

1 data.

2 (ii) Name, address and the interest of the
3 petitioner in the area that is the subject of a petition
4 requesting designation.

5 (iii) Letter or other evidence of support for the
6 petition from the appropriate county planning agency and
7 applicable river basin commission.

8 Section 4. State Water Plan.

9 (a) Preparation.--Within three years of the effective date
10 of this act, and every five years thereafter, the department
11 shall prepare and adopt an updated State Water Plan. The updated
12 plan shall be prepared with the advice of and in consultation
13 with a Statewide Water Resources Advisory Committee and with
14 other State, interstate, regional and other agencies,
15 commissions, organizations and advisory committees as deemed
16 appropriate by the department.

17 (b) Scope.--The plan shall be a high-level plan for the
18 purposes identified in section 1904-A of The Administrative Code
19 of 1929, consistent with the public interest, other laws and
20 regulations relating to water resources and the preservation of
21 the natural, scenic, historic and esthetic values of the
22 environment. The plan shall include:

23 (1) Identification and analysis of major water resources
24 issues by major basin.

25 (2) That combination of policies, programs,
26 institutional arrangements and recommendations that address
27 the identified issues and the water quantity and related
28 quality needs and objectives of the Commonwealth and that
29 will guide future actions in managing the water resources in
30 the public interest.

1 (3) Identification of critical water planning areas.

2 (c) Factors considered.--In developing the plan,
3 consideration shall be given to:

4 (1) Analysis of existing and readily available water
5 resources data.

6 (2) Local and regional water resources needs, priorities
7 and objectives.

8 (3) National, interstate and State water resources
9 policies and objectives, including those identified in
10 statutory law, regulations, compacts, interstate agreements
11 or comprehensive plans adopted by Federal, interstate, State
12 or river basin commission agencies.

13 (4) Assessment of water availability and demands.

14 (5) The conjunctive use, development and management of
15 water resources.

16 (6) Application of water conservation practices and
17 water resource management and hydrologic principles,
18 including the protection of withdrawal and nonwithdrawal
19 uses, stream flows and provision for consumptive use makeup.

20 (7) The benefits, costs and economic, social and
21 environmental impacts of alternative policies, programs,
22 institutional arrangements and recommendations.

23 (d) Public review.--

24 (1) During the plan development process, the department
25 shall hold public information meetings in order to receive
26 public comment.

27 (2) Through publication in the Pennsylvania Bulletin and
28 such other methods of public notice as deemed appropriate,
29 including the department's World Wide Web site, the
30 department shall provide public notice of the availability of

1 a draft plan for review at the department's regional offices
2 and other sites across the Commonwealth and shall accept
3 public comment for a period of at least 90 days before it
4 adopts a final updated plan.

5 (3) The department shall hold public hearings, with
6 public notice of the hearings being provided in the same
7 manner as in paragraph (2), before it adopts a final updated
8 plan.

9 Section 5. Statewide Water Resources Advisory Committee.

10 (a) Establishment.--There is hereby established within the
11 department a Statewide Water Resources Advisory Committee.

12 (b) Membership.--

13 (1) The committee shall consist of:

14 (i) The secretary or a designee, who shall be
15 chairman.

16 (ii) The Secretary of Agriculture or a designee.

17 (iii) The chairman of the Public Utility Commission
18 or a designee.

19 (iv) The Secretary of Conservation and Natural
20 Resources or a designee.

21 (v) The Secretary of Community and Economic
22 Development or a designee.

23 (vi) The executive directors of the Pennsylvania
24 Game Commission and the Pennsylvania Fish and Boat
25 Commission or their designees.

26 (vii) The executive director of the Pennsylvania
27 Emergency Management Agency or a designee.

28 (viii) One member appointed by the secretary from
29 each of the five major basins.

30 (ix) Twelve members representing the interests of

1 commerce, manufacturing, mining, energy and power,
2 agriculture, environment and conservation, public water
3 supply, municipal government, recreation, fish and
4 wildlife, private practice groundwater science, and
5 academic surface water science to be appointed by the
6 Majority and Minority Leaders of the Senate and the
7 Majority and Minority Leaders of the House of
8 Representatives who shall each appoint three of the 12
9 members. In making these appointments, they shall seek a
10 diverse geographic representation to the extent possible.

11 (2) Of the members first appointed by the secretary
12 under subparagraph (1)(viii), two shall serve for a period of
13 three years, two shall serve for a period of two years and
14 one shall serve for a period of one year. Thereafter, each
15 appointment shall be for a period of three years. All
16 vacancies shall be filled for the remainder of the unexpired
17 term in the same manner as the original appointments to
18 provide equitable representation of groups and geographic
19 areas. A member, upon expiration of the term, shall continue
20 to hold office until a successor is appointed.

21 (3) Of the three members appointed each by the majority
22 and minority leaders under subparagraph (1)(ix), one shall
23 serve for a period of three years, one shall serve for a
24 period of two years and one shall serve for a period of one
25 year. Thereafter, each appointment shall be for a period of
26 three years. All vacancies shall be filled for the remainder
27 of the unexpired term in the same manner as the original
28 appointments to provide equitable representation of groups
29 and geographic areas. A member, upon expiration of the term,
30 shall continue to hold office until a successor is appointed.

1 (c) Duties.--The committee shall advise the department in
2 the preparation of the State Water Plan and in implementing
3 other water resources programs under this act.

4 Section 6. Registration, reporting and recordkeeping.

5 (a) Registrations.--Any person whose existing, new or
6 increased withdrawal, diversion or consumptive use from one or
7 more water resources causes a total withdrawal, diversion or
8 consumptive use to equal or exceed an average of 10,000 gallons
9 per day in any 30-day period and all public water supply
10 agencies shall register with the department each source and the
11 amount of each withdrawal, diversion or consumptive use.
12 Registrations shall be submitted to the department no later than
13 twelve months from the effective date of this act or 30 days
14 from the initiation of such withdrawal, diversion or consumptive
15 use, whichever is later. Registrations shall be submitted on
16 forms in a manner and with accompanying data as prescribed by
17 the department.

18 (b) Reporting.--Beginning on the first day of January
19 following the effective date of this act, any person whose
20 existing, new or increased withdrawal, diversion, consumptive
21 use, discharge or return of water from or to one or more water
22 resources causes a total withdrawal, diversion, consumptive use,
23 discharge or return to equal or exceed an average of 10,000
24 gallons per day in any 30-day period and all public water supply
25 agencies shall report to the department annually the source and
26 amount of each withdrawal, diversion, consumptive use,
27 discharge, or return flow. The information shall be submitted to
28 the department on forms, in such manner and with accompanying
29 data as prescribed by the department.

30 (c) Measurements, records and reports.--The department may

1 require any person subject to subsection (a) or (b) to install,
2 use and maintain metering equipment or methods, to perform
3 measuring, to maintain and retain records of information from
4 metering and measuring activities, to submit reports of metering
5 and measuring results and to provide such other information as
6 may be required to determine compliance with this act or with
7 the terms or conditions of any order issued under this act.

8 Section 7. Critical water planning areas.

9 (a) Nomination process.--The department shall establish a
10 process whereby the public may nominate a watershed
11 organization, river basin commission, planning agency or other
12 appropriate entity or combination of entities to prepare an
13 Integrated Water Resources Plan for any watershed in a critical
14 water planning area which is identified by an updated State
15 Water Plan in accordance with section 4 or designated by the
16 department under section 3(15). The nominations shall be subject
17 to public notice and comment.

18 (b) Department to designate.--Based upon nominations under
19 subsection (a), the department is authorized to designate a
20 watershed organization, river basin commission, planning agency
21 or other appropriate entity or combination of entities to
22 prepare an Integrated Water Resources Plan for any watershed in
23 a critical water planning area identified by an updated State
24 Water Plan in accordance with section 4 or designated by the
25 department under section 3(15). The department shall designate
26 only entities that meet all of the following requirements:

27 (1) Are technically capable of completing an Integrated
28 Water Resources Plan that meets the requirements of
29 subsection (c).

30 (2) Are representative of the watershed for which the

1 plan is being prepared.

2 (3) Have demonstrated a capability and commitment to the
3 public participation process that must be part of the
4 planning process required by subsection (d).

5 (c) Contents of plan.--An Integrated Water Resources Plan
6 shall contain, at a minimum, the following components:

7 (1) Identification of existing water resources within
8 the watershed, including water resources that originate
9 outside the watershed and those that are exported.

10 (2) Assessment of the impacts of water quality and
11 remediation upon water resources availability.

12 (3) Identification of current withdrawal and
13 nonwithdrawal uses within the watershed, including
14 consumptive and conjunctive uses.

15 (4) Projection of future trends in withdrawal and
16 nonwithdrawal uses and water resources needs, including
17 population and land use projections, within the watershed.

18 (5) Assessment of the capacity of the watershed to
19 provide adequate water supplies to meet anticipated demands
20 and water resources needs, including the minimum stream flows
21 and groundwater levels necessary to ensure adequate water
22 quantity and quality for the protection of the water resource
23 and ecology, aquatic organisms and other environmental
24 values.

25 (6) Consideration of storm water and floodplain
26 management within the watershed, including their impacts upon
27 water quality and quantity.

28 (7) Identification of water resources shortfalls,
29 existing and potential conflicts among users and areas of the
30 watershed that require special management.

1 (8) Evaluation of supply-side and demand-side
2 alternatives to meet water resources needs of the watershed.

3 (9) Assessment of wastewater discharges to subsurface
4 formations and to surface water resources.

5 (10) Recommendations for programs, procedures and
6 management options, including a schedule to implement and
7 periodically update at least every five years, the Integrated
8 Water Resources Plan, resolve conflicts and to meet water
9 resources needs in the watershed based upon accepted
10 principles of hydrology, effective environmental protection
11 and efficient water management principles and consistent with
12 the public interest, laws and regulations related to water
13 resources and the preservation of the natural, scenic,
14 historic and esthetic values of the environment.

15 (d) Municipal and public participation.--

16 (1) The entity designated under (b) shall establish, in
17 conjunction with each Integrated Water Resources Plan, a
18 watershed planning advisory committee, composed of at least
19 one representative from each municipality within the
20 watershed, the appropriate county conservation district or
21 districts, the appropriate county planning agency or agencies
22 and such other agencies or groups with interests in the
23 watershed as are necessary and proper to carry out the
24 purposes of the committee, which may include representatives
25 of public water supply, industry, commerce, energy,
26 agriculture, conservation and environment.

27 (2) The watershed planning advisory committee shall be
28 responsible for advising the entity designated under
29 subsection (b) throughout the planning process, evaluating
30 policy, program and management alternatives, coordinating the

1 Integrated Water Resources Plan with other municipal plans
2 and programs and reviewing the plan prior to adoption.

3 (3) Prior to submission to the department, each
4 Integrated Water Resources Plan shall be reviewed by the
5 official planning agency and governing body of each
6 municipality in the watershed, the appropriate county
7 planning agency and regional planning agencies for
8 consistency with other plans and programs affecting the
9 watershed. All reviews shall be submitted to the department
10 with the proposed plan.

11 (e) Submission of plan and department review.--Upon
12 completion of the Integrated Water Resources Plan, the entity
13 designated under subsection (b) shall submit the Integrated
14 Water Resources Plan to the department for review and approval.
15 The department shall give notice and accept public comment on
16 any Integrated Water Resources Plan submitted to it. In addition
17 to considering the public comment, the department's review of an
18 Integrated Water Resources Plan shall ensure that the plan is
19 consistent with subsections (c) and (d) and does not conflict
20 with any laws or regulations related to water resources, the
21 State Water Plan, any applicable river basin commission
22 comprehensive plan or any other Integrated Water Resources Plans
23 that may have been approved by the department.

24 (f) Voluntary reduction.--The department shall encourage the
25 voluntary implementation of water use reduction plans by all
26 water users in a critical water planning area. The department
27 will make available technical assistance for this purpose. The
28 department shall identify tools, including programs, procedures
29 and management options that may be available for the voluntary
30 implementation of such plans in a critical water planning area.

1 Section 8. Voluntary water conservation.

2 (a) Center established.--There is hereby established within
3 the department a Water Resources Technical Assistance Center to
4 promote voluntary water conservation and to provide technical
5 assistance on water resources issues. The center shall:

6 (1) Establish a voluntary Statewide water conservation
7 program for all water users.

8 (2) Establish guidelines for the development of
9 voluntary water use reduction plans in critical water
10 planning areas.

11 (3) Identify water conservation principles, practices
12 and technology to assist all water users in conserving water.

13 (4) Develop a water conservation educational program for
14 households, industry and other water users.

15 (5) Establish a Governor's Water Conservation Award to
16 recognize outstanding conservation of water.

17 (6) Develop a program to promote voluntary reduction of
18 unaccounted for water loss.

19 (b) Approval of grants, priority.--When approving grants or
20 loans, pursuant to the act of March 1, 1988 (P.L.82, No.16),
21 known as the Pennsylvania Infrastructure Investment Authority
22 Act, the Pennsylvania Infrastructure Investment Authority shall
23 give priority to funding projects that address unaccounted-for
24 water loss or that implement water conservation practices by any
25 public water supply agency whose unaccounted-for water loss rate
26 exceeds 20%.

27 Section 9. Grants.

28 (a) Authorization.--The department is authorized to provide
29 grants for the following purposes:

30 (1) Reimbursement of up to 75% of the cost of preparing

1 an Integrated Water Resources Plan under section 7.

2 (2) Reimbursement of up to 75% of the cost of preparing
3 a voluntary water use reduction plan under section 7.

4 (3) Water resources education, technical assistance and
5 water conservation, including unaccounted-for water loss
6 reduction, under section 8.

7 (b) Funding.--Grants shall be made from funds available for
8 this purpose.

9 Section 10. Public nuisances.

10 (a) Violation constitutes a public nuisance.--Any violation
11 of any provision of this act, the Water Rights Act or any order
12 of the department shall constitute a public nuisance. Any person
13 committing a violation shall be liable for the costs of
14 abatement of any public nuisance caused by such violation. The
15 Environmental Hearing Board and any court of competent
16 jurisdiction is hereby given jurisdiction over actions to
17 recover the costs of such abatement.

18 (b) Abatement of violation.--Any activity declared by this
19 act to be a nuisance or which is otherwise a violation of this
20 act or the Water Rights Act shall be abatable in the manner
21 provided by law or equity for the abatement of public nuisances.
22 In addition, the department may proceed in equity to abate such
23 nuisances or to restrain or prevent any violation of this act or
24 the Water Rights Act.

25 Section 11. Penalties and remedies.

26 (a) Duty to comply with orders of the department.--It shall
27 be the duty of any person to proceed diligently to comply with
28 any order issued pursuant to section 3. If such person fails to
29 proceed diligently or fails to comply with the order within such
30 time, if any, which may be specified, the person shall be guilty

1 of contempt and shall be punished by the court in an appropriate
2 manner. For this purpose, application may be made by the
3 department to the Commonwealth Court, which court is hereby
4 granted jurisdiction.

5 (b) Department to enforce.--The department shall have the
6 power and its duty shall be to issue such orders and initiate
7 such proceedings as may be necessary and appropriate for the
8 enforcement of this act or the Water Rights Act, any other
9 provision of law notwithstanding. These actions shall include,
10 but are not limited to, the following:

11 (1) To institute in any court of competent jurisdiction,
12 proceedings against any person to compel compliance with the
13 provisions of this act or the Water Rights Act.

14 (2) To do any and all things and actions not
15 inconsistent with any provision of this act for the effective
16 enforcement of this act or the Water Rights Act.

17 (c) Civil penalties.--In addition to proceeding under any
18 other remedy available at law or in equity for a violation of
19 any provision of this act or the Water Rights Act or any order
20 issued thereunder, the department may assess a civil penalty
21 upon a person for a violation. The civil penalty may be
22 assessed, whether or not the violation was willful or negligent.
23 When the department assesses a civil penalty, it shall inform
24 the person of the amount of the penalty. The person assessed
25 with the penalty shall then have 30 days to pay the penalty in
26 full or, if the person wishes to contest either the amount of
27 the penalty or the fact of the violation, the person shall,
28 within the 30-day period, file an appeal of the action with the
29 Environmental Hearing Board. Failure to appeal within 30 days
30 shall result in a waiver of all legal rights to contest the

1 violation or the amount of the penalty. The maximum civil
2 penalty that may be assessed under this section is \$2,500 per
3 day for each violation. Each violation for each separate day and
4 each violation of any provision of this act or the Water Rights
5 Act, or any order issued thereunder, shall constitute a separate
6 and distinct offense under this subsection. In determining the
7 amount of the penalty, the department shall consider:

8 (1) The willfulness and duration of the violation.

9 (2) Damage to water resources, land or other natural
10 resources or their uses, cost of restoration and abatement.

11 (3) Savings resulting to the person in consequences of
12 the violation.

13 (4) Deterrence of future violations.

14 (5) Other relevant factors.

15 (d) Penalties to be concurrent.--The penalties and remedies
16 prescribed by this act shall be deemed concurrent and the
17 existence of or exercise of any remedy shall not prevent the
18 department from exercising any other remedy hereunder, at law or
19 in equity.

20 (e) Separate offenses.--Violations on separate days shall
21 constitute separate offenses for purposes of this act.

22 Section 12. Existing rights and remedies preserved.

23 Nothing in this act shall be construed in a manner to repeal
24 or supersede existing rights and obligations of persons under
25 existing law or statute.

26 Section 13. Financial provisions.

27 (a) Water Conservation Account.--All fines, civil penalties
28 or recovered costs collected under the provisions of section 11,
29 12 or 13 shall be paid into the State Treasury into a separate
30 account to be known as the Water Conservation Account. All

1 moneys placed in the account are hereby appropriated to the
2 department for the purposes authorized in this act.

3 (b) Use of other funds.--Money in the Environmental
4 Stewardship Fund, established by 27 Pa.C.S. § 6104 (relating to
5 fund), known as the Environmental Stewardship and Watershed
6 Protection Act, which is available to the department, and The
7 Clean Water Fund, established by the act of June 22, 1937
8 (P.L.1987, No.394)), known as The Clean Streams Law, may be used
9 by the department for the purposes of this act.

10 Section 14. Effective date.

11 This act shall take effect immediately.