

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1054 Session of
1991

INTRODUCED BY BIRMELIN, GAMBLE, VROON, NOYE, STISH, PESCI,
HERSHEY, BELARDI, PHILLIPS, TULLI, JOHNSON, HERMAN, LEH,
GRUPPO, CIVERA, ARMSTRONG, SERAFINI, BROUJOS, FARGO, WOZNIAK,
ULIANA, DEMPSEY, BILLOW, SEMMEL, DeLUCA, MERRY, CLYMER,
TRELLO, RAYMOND, M. N. WRIGHT, LAUGHLIN, TELEK AND CESSAR,
APRIL 9, 1991

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 9, 1991

AN ACT

1 Amending the act of June 22, 1937 (P.L.1987, No.394), entitled,
2 as amended, "An act to preserve and improve the purity of the
3 waters of the Commonwealth for the protection of public
4 health, animal and aquatic life, and for industrial
5 consumption, and recreation; empowering and directing the
6 creation of indebtedness or the issuing of non-debt revenue
7 bonds by political subdivisions to provide works to abate
8 pollution; providing protection of water supply and water
9 quality; providing for the jurisdiction of courts in the
10 enforcement thereof; providing additional remedies for
11 abating pollution of waters; imposing certain penalties;
12 repealing certain acts; regulating discharges of sewage and
13 industrial wastes; regulating the operation of mines and
14 regulating the impact of mining upon water quality, supply
15 and quantity; placing responsibilities upon landowners and
16 land occupiers and to maintain primary jurisdiction over
17 surface coal mining in Pennsylvania," providing for
18 designation and conservation of exceptional value waters.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Section 1 of the act of June 22, 1937 (P.L.1987,
22 No.394), known as The Clean Streams Law, is amended by adding a
23 definition to read:

24 Section 1. Definitions.--Be it enacted, &c., That the

1 following words or phrases, unless the context clearly indicates
2 otherwise, shall have the meanings ascribed to them in this
3 section.

4 * * *

5 "Exceptional value waters" shall be construed to include
6 those waters and watersheds designated by the Environmental
7 Quality Board as exceptional value waters in compliance with the
8 criteria and procedures of section 5.1 of this act.

9 * * *

10 Section 2. The act is amended by adding a section to read:

11 Section 5.1. Exceptional Value Waters.--(a) Following the
12 procedures set forth in this section, the Environmental Quality
13 Board may by regulation designate a specific stream or
14 watershed, or portions of a stream or watershed, as exceptional
15 value waters if the stream or watershed meets one or more of the
16 following criteria:

17 (1) The stream or watershed was classified as exceptional
18 value waters pursuant to final regulations adopted by the
19 Environmental Quality Board prior to January 1, 1989.

20 (2) The stream or watershed is located within the corridor
21 of a stream which has been designated as "wild" or "scenic"
22 pursuant to the act of December 5, 1972 (P.L.1277, No.283),
23 known as the "Pennsylvania Scenic Rivers Act" or the Wild and
24 Scenic Rivers Act (Public Law 90-542, 16 U.S.C. § 1271 et seq.).

25 (3) The stream or watershed constitute waters flowing within
26 or contiguous to a national, State or county park or forest,
27 State game lands, or other lands owned by the Federal Government
28 or the Commonwealth for conservation purposes.

29 (4) The stream or watershed constitutes a "wilderness trout
30 stream" designated by the Pennsylvania Fish Commission.

1 (5) The stream or watershed is located in the watershed of,
2 and is important to maintaining the quality of, surface waters
3 used by an existing unfiltered public drinking water supply.

4 (6) The Environmental Quality Board finds, after study,
5 that:

6 (i) stream or watershed exhibits water quality meeting at
7 least the water quality criteria for "high quality waters" as
8 set forth in the department's regulations; and

9 (ii) the stream or watershed constitutes an outstanding
10 national, State or regional resource.

11 (b) (1) Except as provided in clause (2) of this
12 subsection, prior to proposal of rules designating an
13 exceptional value water, the department shall prepare an
14 environmental, social and economic impact assessment report.

15 Such report shall:

16 (i) Identify the area and location of the stream and
17 watershed to be designated.

18 (ii) Evaluate the existing water quality, environmental and
19 ecological values of the stream and watershed.

20 (iii) Describe and evaluate the impact of existing and
21 proposed land uses with the watershed to be designated.

22 (iv) Describe and assess the effect of an exceptional value
23 designation on existing and proposed uses of public and private
24 lands adjacent to or in the watershed of the wetland, including
25 impacts upon the value of any private lands which may be
26 affected or restricted by such designation.

27 (2) An environmental, social and economic impact assessment
28 shall not be required where at least ninety per cent of the
29 stream or watershed proposed for designation is located upon the
30 land or lands owned by the Federal Government, the Commonwealth,

1 a county, municipality or public water supply agency.

2 (c) Prior to adopting regulations designating a stream or
3 watershed as exceptional value waters, a public hearing shall be
4 held in the county where the stream or watershed is located.
5 Notice of the public hearing shall be given at least three weeks
6 before in a newspaper of general circulation in the county. At
7 least three weeks prior to such hearing, notice shall also be
8 given by first class mail to any applicants with pending
9 applications for discharge permits in the watershed covered by
10 the petition and any applicants with pending requests for
11 revision, amendment or supplement of official plans submitted
12 pursuant to the act of January 24, 1966 (1965 P.L.1535, No.537),
13 known as the "Pennsylvania Sewage Facilities Act."

14 (d) (1) Any petition filed pursuant to section 1920-A of
15 the act of April 9, 1929 (P.L.177, No.175), known as "The
16 Administrative Code of 1929," requesting the Environmental
17 Quality Board to designate a stream or watershed as exceptional
18 value waters shall be considered pursuant to the procedures set
19 forth in this subsection.

20 (2) The petition shall provide the following information:

21 (i) The location and area of the watershed covered by the
22 petition, including a map or maps published by the United States
23 Geological Survey, indicating the perimeter of the area proposed
24 for designation.

25 (ii) A summary and analysis of available water quality
26 information regarding instream water chemistry.

27 (iii) Data regarding land ownership in the watershed.

28 (iv) A description of the patterns and location of existing
29 land use and development in the watershed.

30 (v) A description of present and proposed land use controls

1 or plans in the watershed.

2 (vi) A detailed description of existing water uses in the
3 watershed.

4 (vii) Detailed supporting evidence establishing that the
5 stream or watershed qualifies for designation as exceptional
6 value waters under the criteria set forth in subsection (a).

7 (viii) The petitioner's name, address and telephone number.

8 (ix) Identification of the petitioner's interest which may
9 be affected by the proposed designation.

10 (3) Within thirty days of receipt of a petition, the
11 department shall notify the petitioner by certified mail whether
12 or not the petition is complete as required by this section.

13 (4) Within thirty days of receipt of a petition, the
14 department shall notify by first class mail, any applicants with
15 pending applications for discharge permits in the watershed
16 covered by the petition and any applicants with pending requests
17 for revision, amendment or supplement of official plans
18 submitted pursuant to the "Pennsylvania Sewage Facilities Act."

19 (e) No petition or proposal to designate a stream or
20 watershed as exceptional value waters shall have any effect or
21 be considered in the review and approval of permit applications
22 submitted under any act administered by the department unless
23 and until such designation is adopted by the Environmental
24 Quality Board as final rulemaking.

25 Section 3. This act shall take effect immediately.