

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 314

Session of
1983

INTRODUCED BY STEIGHNER, BOYES, GEORGE, NOYE, MERRY, KUKOVICH,
CIMINI, WACHOB, COY, DeWEESE, MICHLOVIC, DOMBROWSKI, RYBAK,
PISTELLA, ALDERETTE, STEVENS, F. TAYLOR, VAN HORNE,
COLAFELLA, D. R. WRIGHT AND WOZNIAK, MARCH 1, 1983

SENATOR FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED,
APRIL 24, 1984

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," FURTHER PROVIDING FOR
21 COOPERATION WITH MUNICIPALITIES; PROVIDING FOR DEPARTMENTAL
22 AGREEMENTS FOR DELEGATION OF POWERS; PROVIDING FOR WATER AND
23 SEWAGE LINE RIGHTS-OF-WAY IN STATE PARKS; AND restricting the
24 powers of the Environmental Quality Board as to fees charged
25 to the public relating to the use of State parks.

<—

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

SECTION 1. SECTION 1905-A OF THE ACT OF APRIL 9, 1929
(P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929,
AMENDED FEBRUARY 17, 1984 (P.L.75, NO.14), IS AMENDED TO READ:

SECTION 1905-A. COOPERATION WITH MUNICIPALITIES.--(A) THE
DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL COOPERATE WITH
MUNICIPALITIES IN THE CONSTRUCTION AND COMPLETION OF PROJECTS
AND IMPROVEMENTS FOR THE CONSERVATION OF WATER AND THE CONTROL
OF FLOODS. FOR THIS PURPOSE, THE DEPARTMENT SHALL HAVE THE POWER
TO USE AND EXPEND ANY FUNDS ADVANCED BY MUNICIPALITIES, UNDER
AUTHORITY OF LAW, ON THE PROJECTS AND IMPROVEMENTS DESIGNATED,
WHEN SUCH FUNDS ARE ADVANCED, IN THE SAME MANNER AS IT EXPENDS
ANY FUNDS APPROPRIATED BY THE COMMONWEALTH FOR SIMILAR PURPOSES.

(B) (1) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL
REQUIRE EVERY APPLICANT FOR THE FOLLOWING PERMITS AND PERMIT
REVISIONS TO GIVE WRITTEN NOTICE TO EACH MUNICIPALITY IN WHICH
THE ACTIVITIES ARE LOCATED:

(I) AIR QUALITY PERMITS APPLIED FOR PURSUANT TO THE ACT OF
JANUARY 8, 1960 (1959 P.L.2119, NO.787), KNOWN AS THE "AIR
POLLUTION CONTROL ACT."

(II) WATER ALLOCATION PERMITS APPLIED FOR PURSUANT TO THE
ACT OF JUNE 24, 1939 (P.L.842, NO.365), ENTITLED "AN ACT
RELATING TO THE ACQUISITION OF RIGHTS TO DIVERT WATER FROM
RIVERS, STREAMS, NATURAL LAKES, AND PONDS, OR OTHER SURFACE
WATERS WITHIN THE COMMONWEALTH OR PARTLY WITHIN AND PARTLY
WITHOUT THE COMMONWEALTH; DEFINING VARIOUS WORDS AND PHRASES;
VESTING IN THE WATER AND POWER RESOURCES BOARD CERTAIN POWERS
AND AUTHORITIES FOR THE CONSERVATION, CONTROL AND EQUITABLE USE
OF THE WATERS WITHIN THE COMMONWEALTH IN THE INTERESTS OF THE
PEOPLE OF THE COMMONWEALTH; MAKING AVAILABLE FOR PUBLIC WATER
SUPPLY PURPOSES, WATER RIGHTS HERETOFORE OR HEREAFTER ACQUIRED

1 BUT NOT USED; PROVIDING FOR HEARINGS BY THE WATER AND POWER
2 RESOURCES BOARD AND FOR APPEALS FROM ITS DECISIONS; FIXING FEES;
3 GRANTING TO ALL PUBLIC WATER SUPPLY AGENCIES HERETOFORE OR
4 HEREAFTER CREATED THE RIGHT OF EMINENT DOMAIN AS TO WATERS AND
5 THE LAND COVERED BY SAID WATERS; REPEALING ALL ACTS OR PARTS OF
6 ACTS INCONSISTENT HERewith, INCLUDING ACT NO.109, PAMPHLET LAWS
7 152, APPROVED APRIL 13, 1905, ACT NO.307, PAMPHLET LAWS 455,
8 APPROVED JUNE 7, 1907, ACT NO.64, PAMPHLET LAWS 258, APPROVED
9 APRIL 8, 1937."

10 (III) WATER OBSTRUCTION PERMITS APPLIED FOR PURSUANT TO THE
11 ACT OF NOVEMBER 26, 1978 (P.L.1375, NO.325), KNOWN AS THE "DAM
12 SAFETY AND ENCROACHMENTS ACT."

13 (IV) WATER QUALITY PERMITS, EXCEPT PERMITS RELATING TO COAL
14 MINING ACTIVITIES, APPLIED FOR PURSUANT TO THE ACT OF JUNE 22,
15 1937 (P.L.1987, NO.394), KNOWN AS "THE CLEAN STREAMS LAW."

16 (V) SOLID WASTE AND HAZARDOUS WASTE PERMITS APPLIED FOR
17 PURSUANT TO THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS
18 THE "SOLID WASTE MANAGEMENT ACT."

19 (2) IN THE CASE OF WRITTEN NOTICES SENT PURSUANT TO
20 SUBCLAUSES (I), (II), (III) AND (IV), THE WRITTEN NOTICES [SHALL
21 BE RECEIVED BY THE MUNICIPALITIES AT LEAST THIRTY (30) DAYS
22 BEFORE THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MAY ISSUE OR
23 DENY THE PERMIT.] SHALL BE SENT TO THE MUNICIPALITY UPON
24 SUBMISSION OF THE PERMIT APPLICATION TO THE DEPARTMENT OF
25 ENVIRONMENTAL RESOURCES. THE PERMIT APPLICANT SHALL SUBMIT PROOF
26 THAT THE MUNICIPALITY HAS RECEIVED THE REQUIRED NOTICE TO THE
27 DEPARTMENT OF ENVIRONMENTAL RESOURCES. THE DEPARTMENT OF
28 ENVIRONMENTAL RESOURCES MAY NOT TAKE ANY FINAL ACTION ON THE
29 PERMIT APPLICATION UNTIL THIRTY (30) DAYS FROM THE DATE IT HAS
30 RECEIVED PROOF THAT THE MUNICIPALITY HAS RECEIVED WRITTEN NOTICE

1 OF THE PERMIT APPLICATION. IN THE CASE OF WRITTEN NOTICES SENT
2 PURSUANT TO SUBCLAUSE (V), [THE WRITTEN NOTICES SHALL BE
3 RECEIVED BY THE MUNICIPALITIES AT LEAST SIXTY (60) DAYS BEFORE
4 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MAY ISSUE OR DENY THE
5 PERMIT.] THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MAY NOT TAKE
6 ANY FINAL ACTION ON THE PERMIT APPLICATION UNTIL SIXTY (60) DAYS
7 FROM THE DATE IT HAS RECEIVED PROOF THAT THE MUNICIPALITY HAS
8 RECEIVED WRITTEN NOTICE OF THE PERMIT APPLICATION.

9 (3) IN THE EVENT OF AN EMERGENCY, AS DETERMINED BY THE
10 DEPARTMENT, REQUIRING IMMEDIATE ACTION TO PROTECT PUBLIC HEALTH,
11 SAFETY OR WELFARE, OR TO AVOID SUBSTANTIAL INJURY TO ANY
12 PERSONS, PROPERTY OR THE ENVIRONMENT, THE DEPARTMENT OF
13 ENVIRONMENTAL RESOURCES MAY ISSUE AN EMERGENCY PERMIT, DENY A
14 PERMIT OR TAKE SUCH OTHER ACTION AS MAY BE REQUIRED, WITHOUT
15 REGARD TO THE NOTICE PROVISIONS OF THIS SUBSECTION. THE
16 DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL PROVIDE NOTICE OF
17 SUCH EMERGENCY ACTION TO EACH MUNICIPALITY IN WHICH THE
18 ACTIVITIES ARE LOCATED WITHIN FIVE (5) DAYS OF ISSUING THE
19 EMERGENCY PERMIT.

20 [(3)] (4) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY
21 TO PERMITS RELATING TO COAL MINING ACTIVITIES ISSUED UNDER THE
22 ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS "THE CLEAN
23 STREAMS LAW," THE ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN
24 AS THE "SURFACE MINING CONSERVATION AND RECLAMATION ACT," THE
25 ACT OF APRIL 27, 1966 (1ST SP.SESS., P.L.31, NO.1), KNOWN AS
26 "THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT," AND
27 THE ACT OF SEPTEMBER 24, 1968 (P.L.1040, NO.318), KNOWN AS THE
28 "COAL REFUSE DISPOSAL CONTROL ACT."

29 (5) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO THE
30 ISSUANCE OF GENERAL PERMITS ON A REGIONAL OR STATEWIDE BASIS

1 AUTHORIZING CATEGORIES OF ACTIVITIES AS MAY BE ALLOWED BY
2 STATUTE. ADEQUATE NOTICE OF SUCH GENERAL PERMITS SHALL BE
3 PUBLISHED IN THE PENNSYLVANIA BULLETIN IN ACCORDANCE WITH
4 REGULATIONS ESTABLISHED BY THE ENVIRONMENTAL QUALITY BOARD.

5 (6) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO THE
6 ISSUANCE OR DENIAL OF MINOR AMENDMENTS OR REVISIONS TO PERMITS
7 WHERE SUCH AMENDMENTS OR REVISIONS WOULD NOT EXPAND OR CHANGE
8 THE SCOPE OF THE ACTIVITIES OR SUBSTANTIALLY AFFECT THE
9 ENVIRONMENTAL IMPACTS OF THE ACTIVITIES PREVIOUSLY APPROVED.

10 (7) WHERE ANY STATUTE PROVIDES A MAXIMUM TIME LIMIT FOR
11 ACTION BY THE DEPARTMENT UPON A PERMIT APPLICATION, THE TIME
12 LIMIT FOR SUCH ACTION SHALL NOT BE CALCULATED TO BEGIN UNTIL THE
13 DEPARTMENT OF ENVIRONMENTAL RESOURCES HAS RECEIVED PROOF THAT
14 THE MUNICIPALITY HAS RECEIVED WRITTEN NOTICE OF THE PERMIT
15 APPLICATION.

16 (C) AT ITS OPTION, THE DEPARTMENT MAY, BY WRITTEN AGREEMENT,
17 DELEGATE TO A MUNICIPALITY ONE OR MORE OF ITS REGULATORY AND
18 ENFORCEMENT FUNCTIONS FOR THE LAND APPLICATION OF SEWAGE SLUDGE
19 AND SEPTAGE UNDER THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),
20 KNOWN AS "THE CLEAN STREAMS LAW," AND THE ACT OF JULY 7, 1980
21 (P.L.380, NO.97), KNOWN AS THE "SOLID WASTE MANAGEMENT ACT":
22 PROVIDED, THAT ANY MUNICIPALITY ACTING PURSUANT TO A DELEGATION
23 AGREEMENT SHALL HAVE THE SAME POWERS AND DUTIES OTHERWISE VESTED
24 IN THE DEPARTMENT TO IMPLEMENT THESE ACTS, TO THE EXTENT
25 DELEGATED BY AGREEMENT.

26 (1) NO DELEGATION SHALL BE MADE OF THE AUTHORITY TO ISSUE
27 PERMITS UNDER "THE CLEAN STREAMS LAW" AND THE "SOLID WASTE
28 MANAGEMENT ACT."

29 (2) EACH DELEGATION AGREEMENT SHALL:

30 (I) SPECIFY THE POWERS AND DUTIES TO BE PERFORMED BY THE

DELEGATED MUNICIPALITY;

(II) SPECIFY THE CATEGORIES OF REGULATORY OR ENFORCEMENT
FUNCTIONS TO BE PERFORMED BY THE DELEGATED MUNICIPALITY;

(III) PROVIDE FOR THE COMMITMENT BY THE DELEGATED
MUNICIPALITY OF SUFFICIENT TRAINED STAFF AND RESOURCES TO
PERFORM THE POWERS AND DUTIES TO BE DELEGATED;

(IV) REQUIRE THE DELEGATED MUNICIPALITY TO MAINTAIN RECORDS
OF ACTIVITIES PERFORMED UNDER THE DELEGATION AGREEMENT; AND

(V) PROVIDE FOR OVERSIGHT BY THE DEPARTMENT OF PERFORMANCE
BY THE DELEGATED MUNICIPALITY OF THE FUNCTIONS DELEGATED UNDER
THE AGREEMENT.

(3) ANY PERSON AGGRIEVED BY AN ACTION OF A MUNICIPALITY
PURSUANT TO A DELEGATION AGREEMENT MAY APPEAL SUCH ACTION WITHIN
THIRTY (30) DAYS FOLLOWING NOTICE OF THE ACTION.

(4) WHEN THE DEPARTMENT DELEGATES ONE OR MORE OF ITS
REGULATORY FUNCTIONS TO A MUNICIPALITY, THE DEPARTMENT WILL, IN
ALL CASES, RETAIN THE CONCURRENT POWER TO INSPECT AND MONITOR
AND TO ENFORCE THE PROVISIONS OF THE ACTS.

(5) THE DEPARTMENT MAY WITHDRAW A DELEGATION AGREEMENT AT
ANY TIME.

SECTION 2. SECTION 1906-A OF THE ACT, ADDED DECEMBER 3, 1970
(P.L.834, NO.275), IS AMENDED BY ADDING A CLAUSE TO READ:

SECTION 1906-A. PARKS.--THE DEPARTMENT OF ENVIRONMENTAL
RESOURCES SHALL HAVE THE POWER, AND ITS DUTY SHALL BE:

* * *

(10) TO GRANT RIGHTS-OF-WAY IN AND THROUGH STATE PARKS TO
MUNICIPAL AUTHORITIES AND POLITICAL SUBDIVISIONS OF THIS
COMMONWEALTH FOR THE LAYING OF WATER LINES AND OF LINES FOR THE
TRANSPORTATION OF SEWAGE TO SEWAGE LINES OR SEWAGE TREATMENT
FACILITIES ON STATE PARK LAND, UNDER SUCH TERMS AND CONDITIONS,

1 INCLUDING THE PAYMENT OF FEES, AS THE DEPARTMENT MAY DEEM
2 PROPER, AND WHEN IT SHALL APPEAR THAT THE GRANT OF SUCH RIGHT-
3 OF-WAY WILL NOT SO ADVERSELY AFFECT THE LAND AS TO INTERFERE
4 WITH ITS USUAL AND ORDERLY ADMINISTRATION AND THAT THE INTERESTS
5 OF THE COMMONWEALTH OR ITS CITIZENS WILL BE PROMOTED BY SUCH
6 GRANT.

7 Section ± 3. Section 1920-A(f) of the act of ~~April 9, 1929~~ <—
8 ~~(P.L.177, No.175), known as The Administrative Code of 1929,~~
9 amended July 1, 1981 (P.L.177, No.51), is amended to read:

10 Section 1920-A. Environmental Quality Board.--* * *

11 (f) The board shall establish such rules and regulations,
12 not inconsistent with law, for the control, management,
13 protection, utilization, development, occupancy and use of the
14 lands and resources of State parks, as it may deem necessary to
15 conserve the interests of the Commonwealth. Such rules and
16 regulations shall be compatible with the purposes for which
17 State parks are created. Whenever the board imposes fees or
18 charges for activities, admissions, uses or privileges,
19 including charges for concessions, at or relating to State
20 parks, such charges or fees shall be used solely for the
21 acquisition, maintenance, operation or administration of the
22 State parks systems, and are hereby appropriated for such
23 purposes. ~~After the effective date of this amendatory act, no~~ <—

24 ~~charges or fees shall be imposed by the board on the public for~~
25 ~~parking or admission to State parks.~~ THE BOARD SHALL NOT ADOPT <—

26 OR IMPOSE ANY CHARGES OR FEES FOR PARKING OR GENERAL ADMISSION
27 TO STATE PARKS UNLESS THE CHARGES WERE IMPOSED PRIOR TO JANUARY
28 1, 1984. THE BOARD MAY CONTINUE TO IMPOSE AND MODIFY PARKING
29 CHARGES AND FEES APPLICABLE TO SPECIFIC SERVICES OR UNITS WITHIN
30 THE STATE PARK SYSTEM WHICH WERE IMPOSED PRIOR TO JANUARY 1,

1 1984, AND MAY IMPOSE CHARGES OR FEES FOR ADMISSION TO AND FOR
2 USE OF SPECIFIC SERVICES AND FACILITIES IN STATE PARKS.

3 * * *

4 Section 2 4. This act shall take effect immediately.

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