

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 57

Session of
1985

INTRODUCED BY LLOYD, D. R. WRIGHT, TELEK, REBER, MERRY, CAWLEY,
BLAUM, GALLAGHER, LASHINGER, L. E. SMITH, BELFANTI, LAUGHLIN,
WOZNIAK, GRUPPO, PRESTON, BATTISTO, BELARDI, MORRIS AND
MICHLOVIC, JANUARY 23, 1985

REFERRED TO COMMITTEE ON CONSERVATION, JANUARY 23, 1985

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 the
21 powers and duties of the Department of Environmental
22 Resources.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
26 as The Administrative Code of 1929, is amended by adding a
27 section to read:

1 Section 1904-A.2. Sewage Sludge.--(a) Sewage sludge shall
2 not be applied to surface mined land unless the municipality,
3 municipal authority, corporation, person or other entity
4 applying it is acting pursuant to a sewage sludge land
5 application permit issued by the Department of Environmental
6 Resources under the act of July 7, 1980 (P.L.380, No.97), known
7 as the "Solid Waste Management Act." The requirements of this
8 section, which are in addition to those under the "Solid Waste
9 Management Act," shall not be imposed whenever the application
10 of sewage sludge is to surface mined land located within the
11 territory served by the sewage treatment plant which produced
12 the sewage sludge.

13 (b) The Department of Environmental Resources shall
14 establish a schedule of fees to apply sewage sludge to surface
15 mined land. The amount of the fee shall be determined by the
16 amount of the land area to which sewage sludge is proposed to be
17 applied and the quantity and composition of sewage sludge
18 proposed to be applied. The schedule of fees shall become
19 effective on an interim basis within ninety (90) days after the
20 effective date of this section and the department shall submit a
21 copy of it to the Chief Clerk of the House of Representatives
22 and the Secretary of the Senate who shall cause the same to be
23 printed and distributed among the members. The General Assembly
24 shall have thirty (30) days to approve or disapprove the
25 schedule of fees in the manner provided by section 7 of the act
26 of April 7, 1955 (P.L.23, No.8), known as the "Reorganization
27 Act of 1955." If the schedule of fees is approved or the General
28 Assembly takes no action within the prescribed time period, the
29 schedule shall become final. If the General Assembly disapproves
30 the schedule of fees, the department shall, within thirty (30)

1 days, submit a new schedule of fees to the General Assembly for
2 consideration in the same manner as the disapproved schedule of
3 fees and the interim schedule of fees shall continue in effect
4 until a new schedule of fees becomes effective. If, at any time
5 after the General Assembly approves a schedule of fees or allows
6 it to become effective by taking no action, the department
7 determines that the schedule should be revised, the department
8 shall submit a new schedule of fees to the General Assembly for
9 consideration in the same manner as the initial schedule of fees
10 required to be submitted pursuant to this subsection.

11 (c) The schedule of fees established or proposed by the
12 Department of Environmental Resources pursuant to subsection (b)
13 shall provide revenue adequate to finance a comprehensive
14 inspection program by the department, including testing of the
15 soil, subsoil, sewage sludge, vegetation, surface water and
16 underground water before application of sewage sludge and on an
17 ongoing, periodic basis after application, and to reimburse the
18 necessary and proper expenses incurred by the municipality in
19 which the sewage sludge site is located or by citizens of that
20 municipality for testing of the soil, subsoil, sewage sludge,
21 vegetation, surface water and underground water before and after
22 the sewage sludge is applied. The department shall, by
23 regulation, establish the comprehensive inspection program to be
24 conducted by the department and the conditions under which
25 expenses are to be reimbursed to a municipality and to citizens.
26 The provisions of this subsection shall not prohibit General
27 Fund appropriations for the purpose of comprehensive inspection
28 by the department or for the purpose of inspection by
29 municipalities and citizens and shall not prohibit any
30 municipality in which a sewage sludge site is located from

1 imposing any fees which that municipality may impose under any
2 other provision of law.

3 (d) The Department of Environmental Resources shall not
4 issue a permit to apply sewage sludge to surface mined land
5 unless the department, in addition to any finding required under
6 the "Solid Waste Management Act," and any other provision of
7 law, finds, after public notice and hearing, that the
8 municipality, municipal authority, corporation, person or other
9 entity seeking the permit:

10 (1) Has given personal notice to all owners and occupants of
11 real estate adjacent to the land to which sewage sludge is
12 proposed to be applied; to any other owners and occupants of
13 real estate within one mile of the land to which sewage sludge
14 is proposed to be applied; and to all municipalities, municipal
15 authorities or public utilities whose water supply comes in
16 whole or in part from surface or underground water within one
17 mile of the land to which sewage sludge is proposed to be
18 applied.

19 (2) Has the qualifications to apply the sewage sludge and
20 conduct proper monitoring after application or has contracted
21 for a qualified corporation, person or other entity to apply the
22 sludge and perform the proper monitoring after application. The
23 requisite qualifications shall include both technical skills and
24 a satisfactory record of compliance with environmental statutes
25 and regulations and with criminal statutes.

26 (3) Has developed and agreed to carry out, for a minimum of
27 ten (10) years after application, appropriate monitoring of the
28 soil, subsoil, vegetation, groundwater and surface water on or
29 in the immediate vicinity of the land on which the sewage sludge
30 is to be applied.

1 (4) Has posted bonds or obtained insurance in adequate
2 amounts or otherwise proven a financial ability to pay for
3 corrective action in the event of adverse environmental or
4 public health consequences or for preventive action in the event
5 of probable adverse environmental or public health consequences
6 from the application of sewage sludge.

7 (5) Has obtained the written consent of the owner of the
8 land on which the sewage sludge is proposed to be applied, which
9 written consent will be maintained in a separate file
10 established for that purpose in the office for the recording of
11 deeds of the county in which the land is located.

12 (6) Has agreed to allow reasonable access to the land
13 before, during and after the application of sewage sludge so the
14 municipality in which the land is located and citizens of the
15 municipality may conduct reasonable tests of the sewage sludge,
16 soil, subsoil, vegetation and surface and underground water on
17 or in the immediate vicinity of the land on which the sewage
18 sludge is proposed to be applied.

19 (7) Has agreed to transport, store and apply sewage sludge
20 to the land in question only in the quantity and in the manner
21 prescribed by the department and to maintain proper erosion,
22 sediment and storm water runoff controls after application.

23 (8) Has agreed not to apply sewage sludge to land on which
24 sewage sludge has previously been applied.

25 (9) Has agreed not to store sewage sludge on the land to
26 which sewage sludge is proposed to be applied if such storage
27 would occur during the winter when sewage sludge could not
28 normally be applied because of the condition of the soil.

29 (e) The provisions of this section shall not diminish the
30 powers and duties of the Department of Environmental Resources

to regulate sewage sludge pursuant of the "Solid Waste Management Act," or relieve the department or any municipality, municipal authority, corporation, person or other entity of any responsibilities or obligations imposed by, or pursuant to, that act. The violation of any provision of this section; the agreements entered or conditions imposed by, or pursuant to, this section; or any provisions of the "Solid Waste Management Act" or the regulations promulgated pursuant thereto shall be cause for the suspension or revocation of a permit to apply sewage sludge to surface mined land and the basis of an order to undertake, or pay for, corrective action and shall be cause for the denial of a sewage sludge land application permit on another area of surface mined land and the suspension or revocation of a sewage sludge land application permit on another area of surface mined land. A municipality, municipal authority, corporation, person or other entity arguably affected by the violation shall have standing to seek a suspension or revocation of a permit through the administrative procedure of the department or in a court of law or equity.

Section 2. This act shall take effect immediately.