

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2590 Session of
1998

INTRODUCED BY REBER, GEORGE, PIPPY, SEYFERT, FEESE, HERSHEY,
ARMSTRONG, DENT, SCHRODER, HERMAN, LEVDANSKY, MICHLOVIC,
McGILL, M. N. WRIGHT, TULLI, STEELMAN, MILLER, BAKER, LUCYK,
HABAY, JADLOWIEC, SEMMEL, REINARD, LEH, RUBLEY, HESS, CLYMER,
MAJOR, DRUCE, STEIL AND McILHINNEY, MAY 5, 1998

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 5, 1998

AN ACT

1 Amending the act of October 4, 1978 (P.L.864, No.167), entitled
2 "An act providing for the regulation of land and water use
3 for flood control and storm water management purposes,
4 imposing duties and conferring powers on the Department of
5 Environmental Resources, municipalities and counties,
6 providing for enforcement, and making appropriations,"
7 further providing for failure to adopt certain ordinances,
8 for duty of land developers and for grants to counties; and
9 making an editorial change.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Sections 4 and 12 of the act of October 4, 1978
13 (P.L.864, No.167), known as the Storm Water Management Act, are
14 amended to read:

15 Section 4. Definitions.

16 The following words and phrases when used in this act shall
17 have, unless the context clearly indicates otherwise, the
18 meanings given to them in this section:

19 "Department." The Department of Environmental [Resources]

1 Protection of the Commonwealth of Pennsylvania.

2 "Municipality." A city, borough, town or township, or any
3 county or other governmental unit when acting as an agent
4 thereof, or any combination thereof acting jointly.

5 "Pennsylvania Municipalities Planning Code." The act of July
6 31, 1968 (P.L.805, No.247), as amended.

7 "Person." An individual, partnership, public or private
8 association or corporation, firm, trust, estate, municipality,
9 governmental unit, public utility or any other legal entity
10 whatsoever which is recognized by law as the subject of rights
11 and duties. Whenever used in any section prescribing or imposing
12 a penalty, the term "person" shall include the members of a
13 partnership, the officers, members, servants and agents of an
14 association, officers, agents and servants of a corporation, and
15 the officers of a municipality or county, but shall exclude any
16 department, board, bureau or agency of the Commonwealth.

17 "Public utility service." The rendering of the following
18 services for the public:

19 (1) gas, electricity or steam production, generation,
20 transmission or distribution;

21 (2) water diversion, pumping, impoundment, or
22 distribution;

23 (3) railroad transportation of passengers or property;

24 (4) operation of a canal, turnpike, tunnel, bridge,
25 wharf or similar structure;

26 (5) transportation of natural or artificial gas, crude
27 oil, gasoline or petroleum products, materials for
28 refrigeration or other fluid substances by pipeline or
29 conduit;

30 (6) telephone or telegraph communications; and

1 (7) sewage collection, treatment or disposal.

2 "Storm water." Drainage runoff from the surface of the land
3 resulting from precipitation or snow or ice melt.

4 "Watershed." The entire region or area drained by a river or
5 other body of water, whether natural or artificial.

6 "Watershed storm water plan." A plan for storm water
7 management adopted by a county in accordance with section 5.
8 Section 12. Failure of municipalities to adopt implementing
9 ordinances.

10 (a) If the department finds that a municipality has failed
11 to adopt or amend, and implement such ordinances and regulations
12 as required by section 11, the department shall provide written
13 notice of violation to the municipality.

14 (b) Within 60 days of receipt of the notice of violation,
15 the municipality shall report to the department the action which
16 it is taking to comply with the requirement or regulation.

17 (c) [If within 180 days of receipt of the notice of
18 violation, the municipality has failed to comply with such
19 requirement or regulation, as determined by the department, the
20 department shall notify the State Treasurer to withhold payment
21 of all funds payable to the municipality from the General Fund.
22 Provided, that prior to any withholding of funds, the department
23 shall give both notice to the municipality of its intention to
24 notify the State Treasurer to withhold payment of funds and the
25 right to appeal the decision of the department within the 180-
26 day period following notification. The hearing shall be
27 conducted before the Environmental Hearing Board in accordance
28 with the provisions of the act of April 9, 1929 (P.L.177,
29 No.175), known as "The Administrative Code of 1929," and
30 Chapters 5 and 7 of Title 2 (Administrative Law and Procedure),

1 of the Pennsylvania Consolidated Statutes. If an appeal is filed
2 within the 180-day period, funds shall not be withheld from the
3 municipality until the appeal is decided.

4 (d)] Any person, other than a municipality, aggrieved by an
5 action of the department shall have the right within 30 days of
6 receipt of notice of such action to appeal such action to the
7 Environmental Hearing Board, pursuant to section 1921-A, act of
8 April 9, 1929 (P.L.177, No.175), known as "The Administrative
9 Code of 1929," and the provisions of Chapters 5 and 7 of Title 2
10 (Administrative Law and Procedure) of the Pennsylvania
11 Consolidated Statutes.

12 Section 2. Section 17 of the act, amended May 24, 1984
13 (P.L.324, No.63), is amended to read:

14 Section 17. Grants and reimbursements to municipalities and
15 counties.

16 (a) The [Department of Environmental Resources] department
17 is authorized to administer grants to municipalities and
18 counties to assist or reimburse them for costs in preparing
19 official storm water management plans and actual administrative
20 and enforcement and implementation costs and revisions to
21 official plans for storm water management required by this act.
22 Grants and reimbursements shall be made from and to the extent
23 of funds appropriated by the General Assembly for such purposes,
24 and shall be made in accordance to rules and regulations adopted
25 by the Environmental Quality Board.

26 (1) The grant shall be equal to [75%] 100% of the
27 allowable costs for preparation of official storm water
28 management plans, administrative, enforcement and
29 implementation costs incurred by any municipality or county.

30 (2) For the purposes of this section, such State grants

1 shall be in addition to grants for similar purposes made to
2 any municipality or county by the Federal Government:

3 Provided, That the grants authorized by this section shall be
4 limited such that the total of all State and Federal grants
5 does not exceed [75%] 100% of the allowable costs incurred by
6 the municipality or county.

7 (b) Nothing in this section shall be construed to impair or
8 limit application of this act to any municipality or person, or
9 to relieve any municipality or person of duties imposed under
10 this act.

11 (c) If, in any fiscal year, appropriations are insufficient
12 to cover the costs or grants and reimbursement to all
13 municipalities and counties eligible for such grants and
14 reimbursements in that fiscal year, the [Department of
15 Environmental Resources] department shall report such fact to
16 the General Assembly and shall request appropriation of funds
17 necessary to provide the grants authorized in this section. If
18 such a deficiency appropriation is not enacted, any municipality
19 or county which has not received the full amount of the grant
20 for which it is eligible under this section shall be as a first
21 priority reimbursed from appropriations made in the next
22 successive fiscal year.

23 Section 3. This act shall take effect in 60 days.