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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2799 Session of  
2002

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INTRODUCED BY MCILHINNEY, ADOLPH, M. BAKER, CALTAGIRONE, CAWLEY,  
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WANSACZ, WASHINGTON, WATSON, YOUNGBLOOD, YUDICHAK AND MANN,  
JULY 15, 2002

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JULY 15, 2002

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AN ACT

1 Relating to environmental policy; establishing procedures for  
2 reviewing environmental policy actions; and providing for  
3 notice, hearings and appeals.

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 Pennsylvania  
8 Environmental Policy Act.

9 Section 2. Finding of fact.

10 (a) General findings.--The General Assembly finds that:

11 (1) The protection and preservation of Pennsylvania's  
12 diverse environment is necessary for the maintenance of the  
13 public health and welfare and the continued viability of the  
14 economy of the State and is a matter of the highest public  
15 priority.

16 (2) State agencies should conduct their affairs with an

1 awareness that they are stewards of the air, land, water,  
2 plants, animals and environmental, historical and cultural  
3 resources.

4 (3) Environmental evaluations should be a part of the  
5 decision-making processes of the State.

6 (4) Environmental impact statements can facilitate the  
7 fullest practicable provision of timely public information,  
8 understanding and participation in the decision-making  
9 processes of the State.

10 (b) Policy on use of environmental impact statements.--In  
11 order to achieve the objectives set forth in subsection (a), the  
12 General Assembly hereby finds and declares that the following  
13 policy shall apply to the use of environmental impact statements  
14 prepared pursuant to this act:

15 (1) The purpose of an environmental impact statement is  
16 to identify the significant effects on the environment of a  
17 project, to identify alternatives to the project, and to  
18 indicate the manner in which those significant effects can be  
19 mitigated or avoided.

20 (2) Each public agency shall mitigate or avoid the  
21 significant effects on the environment of projects that it  
22 carries out or approves whenever it is feasible to do so.

23 (3) If economic, social or other conditions make it  
24 infeasible to mitigate one or more significant effects on the  
25 environment of a project, the project may nonetheless be  
26 carried out or approved at the discretion of a public agency  
27 if the project is otherwise permissible under applicable laws  
28 and regulations.

29 (c) Policy on comments from the public and public agencies  
30 to lead agencies; availability of information.--The General

1 Assembly further finds and declares it is the policy of the  
2 Commonwealth that:

3 (1) Comments from the public and public agencies on the  
4 environmental effects of a project shall be made to lead  
5 agencies as soon as possible in the review of environmental  
6 documents, including, but not limited to, draft environmental  
7 impact statements and finding of no significant impacts, in  
8 order to allow the lead agencies to identify, at the earliest  
9 possible time in the environmental review process, potential  
10 significant effects of a project, alternatives and mitigation  
11 measures which would substantially reduce the effects.

12 (2) Information relevant to the significant effects of a  
13 project, alternatives and mitigation measures which  
14 substantially reduce the effects shall be made available as  
15 soon as possible by lead agencies, other public agencies and  
16 interested persons and organizations.

17 Section 3. Definitions.

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

21 "A proposed governmental action which may significantly  
22 adversely affect the quality of the environment." A project  
23 proposed to be undertaken by a government agency or agencies,  
24 for which it is probable to expect a significant adverse impact  
25 on the natural environment, including the State's air, land,  
26 water, plants, animals, historical sites or buildings or  
27 cultural resources. Such actions shall not include: emergency  
28 measures undertaken in response to an immediate threat to public  
29 health or safety, or activities in which government agency  
30 participation is ministerial in nature, involving no exercise of

1 discretion on the part of the government agency.

2 "Environmental effects report." A report on a proposed  
3 governmental action which may significantly adversely affect the  
4 quality of the environment.

5 "Finding of no significant impact." A written statement  
6 briefly describing the reasons that a proposed project will not  
7 have a significant effect on the environment and does not  
8 require the preparation of an environmental impact statement.

9 "Government agency." Any department, board, bureau,  
10 commission, authority or other agency of the Commonwealth.

11 "Land-disturbing activity." Scraping, plowing, clearing,  
12 dredging, grading, excavating, transporting or filling of land  
13 or placement of any structure or impervious surface, dam,  
14 obstruction or deposit or placement of or alteration to any  
15 structure on or eligible for registration as an historic place,  
16 provided, however, that agricultural practices involving the  
17 establishment, cultivation or harvesting of products of the  
18 field or orchard, the preparation and planting of pasture land,  
19 farm ponds, dairy operations, livestock and poultry management  
20 practices and forestry land management practices, involving the  
21 harvesting of less than five acres of trees over two inches in  
22 diameter at breast height are excluded from the definition of  
23 land-disturbing activity.

24 "Proposed governmental action." Any proposed land-disturbing  
25 activity by a government agency or funded by a grant from a  
26 government agency, any proposed sale or exchange of more than  
27 five acres of State-owned land or any proposed harvesting of  
28 five acres or more of trees over two inches in diameter at  
29 breast height, but the term does not include the following:

30 (1) any action or undertaking of a nongovernmental

1 entity, even if that action or undertaking requires a permit,  
2 license or other approval by a government agency unless that  
3 action or undertaking were to occur on public lands;

4 (2) any action or undertaking of a municipality, a  
5 county or an authority of a municipality or county unless  
6 more than 50% of the total cost is funded by a grant of a  
7 government agency or a grant of more than \$250,000 is made by  
8 a government agency;

9 (3) the permitting or licensing by a government agency  
10 of an action or undertaking;

11 (4) the promulgation and implementation of rules and  
12 regulations by a government agency;

13 (5) the sale of bonds by a government agency or any  
14 program of loans funded by the sale of bonds by a government  
15 agency; or

16 (6) litigation decisions made by a government agency.

17 "Responsible official." The official or body in charge of or  
18 authorized to act on behalf of a government agency.

19 Section 4. Environmental impact statement.

20 (a) Determination.--The responsible official of the  
21 government agency shall determine if a proposed governmental  
22 action is a proposed governmental action which may significantly  
23 adversely affect the quality of the environment.

24 (b) Nonadverse affect.--If the responsible official  
25 determines that the proposed governmental action is a proposed  
26 governmental action which will not significantly adversely  
27 affect the quality of the environment, the government agency  
28 responsible for such project shall prepare a finding of no  
29 significant impact which shall:

30 (1) Include a brief description of the project including

1 the anticipated environmental effects and proposed mitigating  
2 measures.

3 (2) A brief discussion of why the project will not have  
4 a significant effect on the environment.

5 (3) The name and contact information for the responsible  
6 official.

7 (4) A description of where the public can obtain and/or  
8 review information on the proposed project and any underlying  
9 analysis completed by the lead agency.

10 (5) A description of how aggrieved persons may challenge  
11 the decision.

12 (c) Adverse affect.--If the responsible official determines  
13 that the proposed governmental action is a proposed governmental  
14 action which may significantly adversely affect the quality of  
15 the environment, the government agency responsible for such  
16 project shall prepare an environmental impact statement  
17 including, but not limited to, a discussion of:

18 (1) The environmental impact of the proposed  
19 governmental action.

20 (2) Alternatives to the proposed governmental action,  
21 including no action.

22 (3) Any adverse environmental effects which cannot be  
23 avoided if the proposed governmental action is undertaken.

24 (4) Mitigation measures proposed to avoid or minimize  
25 the adverse impact of the proposed governmental action.

26 (5) The relationship between the value of the short-term  
27 uses of the environment involved in the proposed governmental  
28 action and the maintenance and enhancement of its long-term  
29 value.

30 (6) The effect of the proposed governmental action on

1 the quality and quantity of water supply.

2 (7) The effect of the proposed governmental action on  
3 energy use or energy production.

4 (8) Any beneficial aspects of the proposed governmental  
5 action, both short term and long term, and its economic  
6 advantages and disadvantages.

7 (d) Cooperation with other agencies.--Prior to the issuance  
8 of the environmental effects report, the responsible official  
9 should consult with and obtain the comments of any agency which  
10 has jurisdiction by law, special expertise or other interest  
11 with respect to any environmental impact or resource.

12 (e) Publication of notice.--At least 60 days for an  
13 environmental impact statement, 30 days for a finding of no  
14 significant impact prior to making a decision as to whether to  
15 proceed with a proposed governmental action which is subject to  
16 this act, the responsible official shall publish in the  
17 Pennsylvania Bulletin and the legal publication of each county  
18 in which the proposed governmental action or any part thereof is  
19 to occur notice that an environmental impact statement or  
20 finding of no significant impact has been prepared. The  
21 responsible official shall also make the environmental effects  
22 report available to the public and to counties, municipalities,  
23 institutions and individuals upon request. Public notice shall  
24 include:

25 (1) A brief description of the project.

26 (2) The name and contact information for the responsible  
27 official.

28 (3) A description of where the public can obtain and/or  
29 review information on the proposed project and any underlying  
30 analysis completed by the lead agency.

1           (4) A description of how interested persons may comment  
2       on the finding of no significant impact or the environmental  
3       impact statement.

4   Section 5. Public hearings, appeals.

5       (a) Hearings.--If the responsible official receives, within  
6   30 days of the publication of the notice in the Pennsylvania  
7   Bulletin and the legal publication of an affected county or  
8   counties, requests in writing for a public hearing from at least  
9   100 persons who are residents of this Commonwealth, a public  
10   hearing shall be held by the responsible official or his  
11   designee. The responsible official or his designee may, in the  
12   sole discretion of the responsible official, hold a public  
13   hearing in each such county at any time after 30 days from the  
14   date of publication of the notice has elapsed even if fewer than  
15   100 requests are received in writing from residents of this  
16   Commonwealth, but only one public hearing in a county shall be  
17   required regardless of whether it is a mandatory or  
18   discretionary hearing. The location of any public hearings shall  
19   be based upon the counties most affected by the project and the  
20   county of residence for those persons aggrieved by the project.

21       (b) Decision by responsible official.--The responsible  
22   official shall consider all comments received either in writing  
23   or during the public hearing or hearings, if held. After  
24   considering these comments, the responsible official shall  
25   decide whether to proceed with the proposed governmental action  
26   as originally proposed, whether to proceed with changes or  
27   whether not to proceed. Notice of the decision of the  
28   responsible official shall be published in the Pennsylvania  
29   Bulletin and the legal publication of each county in which the  
30   proposed governmental action or any part thereof is to occur.



1 Any such notices shall include:

2 (1) A brief description of the project.

3 (2) The name and contact information for the responsible  
4 official.

5 (3) A brief description of the rationale for the  
6 decision.

7 (4) A description of where the public can obtain and/or  
8 review information on the proposed project and any underlying  
9 analysis completed by the lead agency.

10 (5) A description of how aggrieved persons may challenge  
11 the decision.

12 (c) Appeals.--Any person who shall be aggrieved by a  
13 decision issued under this act, or the failure to issue a  
14 decision under this act, shall have the right, within 30 days of  
15 receipt of the notice thereof, to appeal the action to the  
16 Environmental Hearing Board. No action shall be taken on a  
17 project approved under this act until at least 45 days after  
18 public notice of the decision by a responsible officer has been  
19 issued.

20 Section 6. Review by agencies.

21 All government agencies shall review their present statutory  
22 authority, administrative regulations and current policies and  
23 procedures for the purpose of determining whether there are any  
24 deficiencies or inconsistencies therein which prohibit or hinder  
25 full compliance with the intent, purposes and provisions of this  
26 act and shall propose to the Governor not later than 180 days  
27 after the effective date of this act, such measures as may be  
28 necessary to bring their authority, regulations, policies and  
29 procedures into conformity with the intent, purposes and  
30 procedures set forth in this act.

1 Section 7. Applicability.

2 Nothing in this act shall in any way affect or detract from  
3 specific statutory obligations of any government agency to  
4 comply with criteria or standards of environmental quality or to  
5 perform other statutory obligations imposed upon it except those  
6 specified in section 6 to coordinate or consult with any other  
7 government agency or Federal agency or to act, or refrain from  
8 acting, contingent upon the recommendations or certification of  
9 any other government agency or Federal agency. A government  
10 agency shall be deemed to have complied with the requirements of  
11 this act for a proposed governmental action that requires and  
12 has received Federal approval of an environmental document  
13 prepared in accordance with the National Environmental Policy  
14 Act of 1969 (Public Law 91-190, 42 U.S.C. § 4321 et seq.), and  
15 its implementing regulations.

16 Section 8. Issuance of regulations.

17 The Environmental Quality Board shall issue regulations  
18 pursuant to this act to assist government agencies in the  
19 preparation of environmental impact statement and findings of no  
20 significant impact in accordance with this act, including, but  
21 not limited to, provisions for:

22 (1) Criteria for determining if a proposed governmental  
23 action may significantly adversely affect the quality of the  
24 environment.

25 (2) Comment upon the proposed governmental action by  
26 public and private organizations and individuals.

27 (3) The possibility of the preparation of single-program  
28 environmental effects reports if a series of governmental  
29 actions taken individually are of minimal adverse  
30 significance on the environment, but the cumulative effect of

1 the proposed governmental actions on the environment is  
2 significantly adverse or if a series of proposed governmental  
3 actions are related either geographically or as logical parts  
4 in a chain of contemplated actions.

5 (4) The possibility of the preparation of modified  
6 environmental impact statements on remaining decisions  
7 significantly adversely affecting the quality of the  
8 environment that are parts of actions begun before but not  
9 completed before the effective date of this act.

10 Section 9. Effective date.

11 This act shall take effect in 90 days.