
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 724 Session of
2015

INTRODUCED BY VOGEL, GREENLEAF, SCARNATI AND WARD,
APRIL 14, 2015

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 14, 2015

AN ACT

1 Providing for the creation of a watershed improvement program,
2 for establishment of a verified TMDL parameter credit
3 program, for the powers and duties of the Department of
4 Environmental Protection and the Pennsylvania Infrastructure
5 Investment Authority.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Watershed
10 Improvement Act.

11 Section 2. Definitions.

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

15 "Board." The Environmental Quality Board.

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

18 "Fund." The Watershed Improvement Fund established under
19 section 5.

1 "PENNVEST." The Pennsylvania Infrastructure Investment
2 Authority.

3 "Permittee." An individual, partnership, corporation,
4 association, institution, municipality or public authority or
5 cooperative enterprise that discharges or releases a TMDL
6 parameter to surface or ground waters of this Commonwealth. The
7 term does not include a person engaged in agricultural
8 production, as defined in section 3 of the act of June 30, 1981
9 (P.L.128, No.43), known as the Agricultural Area Security Law.

10 "Program." The Watershed Improvement Program.

11 "Sediment." Soils or other erodible materials transported by
12 storm water as a product of erosion.

13 "TMDL." Total maximum daily load.

14 "TMDL parameter." Pollutant that has been identified as the
15 cause of nonattainment of water quality standards and for which
16 a TMDL has been developed to set allowable loading targets.

17 "Unmet TMDL parameter." Total outstanding permittee
18 requirements, going forward three years, issued by the
19 department.

20 "Verified TMDL parameter credit." A unit of pollutant load
21 reduction for a TMDL parameter achieved through a pollutant
22 reduction activity approved by the department as a verified
23 reduction based upon an approved verification plan.

24 "Water year." The 12-month period beginning October 1 of
25 each calendar year.

26 Section 3. Watershed Improvement Program.

27 (a) Establishment.--The Watershed Improvement Program is
28 established. The program shall provide for the purchase of
29 department-verified TMDL parameter credits through a competitive
30 process consistent with 62 Pa.C.S. Pt.1 (relating to

1 Commonwealth Procurement Code) and any other process determined
2 to be appropriate by the department and PENNVEST.

3 (b) Powers and duties.--The department and PENNVEST shall
4 administer the program and take any actions necessary to
5 effectuate the purposes of this act.

6 (c) Contracts with TMDL parameter credit sellers.--

7 (1) The following shall apply:

8 (i) The department shall, beginning with the water
9 year in which this subsection takes effect and the next
10 two water years, publish a notice of the unmet TMDL
11 requirements in the Pennsylvania Bulletin.

12 (ii) No later than 60 days following publication of
13 the notice under subparagraph (i), PENNVEST shall issue,
14 in consultation with the department, a request for
15 proposals under 62 Pa.C.S. Pt. I for purchase of long-
16 term verified TMDL parameter credits in order to meet the
17 unmet TMDL parameter for those water years included in
18 the notice. A long-term verified TMDL parameter credit
19 under this subparagraph must be at least 10 years.

20 (2) The department, in consultation with PENNVEST, shall
21 determine the conditions or evaluation factors applicable to
22 the procurement and purchase of verified TMDL parameter
23 credits to best achieve cost-effective water quality
24 improvements within the watershed defined by the TMDL. The
25 conditions or evaluation factors shall include, but not be
26 limited to, cost, environmental benefits and whether multiple
27 TMDL parameters would be met.

28 (3) Within 30 days following the date for submission of
29 responses to the request for proposals, the department and
30 PENNVEST shall determine the cost for purchase of each long-

1 term individual verified TMDL parameter credit included in
2 the request for proposals and shall publish a notice of the
3 cost in the Pennsylvania Bulletin.

4 Section 4. Voluntary options for compliance.

5 (a) Voluntary compliance opt-in.--The department shall
6 establish a voluntary TMDL parameter permit compliance program
7 to allow permittees and other buyers to elect to comply with
8 TMDL parameter permit requirements by agreeing to make payments
9 to the fund for the requisite number of verified TMDL parameter
10 credits obtained under section 3 needed in order to meet permit
11 requirements.

12 (b) Payment amounts.--Payment amounts under subsection (a)
13 shall be based on the cost determination made under section 3(c)
14 (3) as published in the Pennsylvania Bulletin.

15 (c) Election to opt in.--A permittee shall have 30 days
16 following publication of the notice under section 3(c) (3) to
17 notify the department of the permittee's election to opt in to
18 the voluntary TMDL parameter permit compliance program or
19 proceed with an alternative compliance method under subsection
20 (e).

21 (d) Offset.--Verified TMDL parameter credits obtained under
22 subsection (a) shall be deemed by the department to satisfy
23 applicable waste water and storm water TMDL parameter permitting
24 requirements.

25 (e) Alternative compliance.--A permittee which elects not to
26 opt in to the voluntary TMDL parameter compliance program under
27 subsection (a) shall, as part of the permittee's wastewater or
28 storm water permitting process, demonstrate to the department
29 the cost-effectiveness of the alternative TMDL compliance method
30 selected in comparison with other alternatives, including opting

1 in to the voluntary TMDL parameter permit compliance program
2 under subsection (a) and as part of the permittee's review under
3 the act of January 24, 1966 (1965 P.L.1535, No.537), known as
4 the Pennsylvania Sewage Facilities Act and the act of October 4,
5 1978 (P.L.864, No.167), known as the Storm Water Management Act.
6 Section 5. Watershed Improvement Fund.

7 (a) Establishment.--The Watershed Improvement Fund is
8 created within the State Treasury as a special fund.

9 (b) Deposits.--The following shall be deposited into the
10 fund:

11 (1) Any appropriation made to the fund.

12 (2) Any other Federal or State appropriation or other
13 money determined by the department, in consultation with the
14 Governor's Office of the Budget, to be available for the
15 program.

16 (3) Any money received from a permittee under section 4.

17 (c) Use.--Money in the fund shall be used by PENNVEST for
18 the purchase of verified TMDL parameter credits under section 3.
19 Section 6. Regulations.

20 The board may promulgate regulations to carry out the
21 provisions of this act.

22 Section 7. Effective date.

23 This act shall take effect in 30 days.