

## AMENDMENTS TO SENATE BILL NO. 575

Sponsor: SENATOR YAW

Printer's No. 822

1 Amend Bill, page 1, lines 1 through 3, by striking out all of  
2 said lines and inserting

3 Amending Title 27 (Environmental Resources) of the Pennsylvania  
4 Consolidated Statutes, in environmental stewardship and  
5 watershed protection, further providing for agencies;  
6 providing for Pennsylvania Clean Water Procurement Program;  
7 establishing the Watershed Innovation and Improvement Fund;  
8 and making an appropriation.

9 Amend Bill, page 1, lines 6 through 18; pages 2 through 6,  
10 lines 1 through 30; page 7, lines 1 through 16; by striking out  
11 all of said lines on said pages and inserting

12 Section 1. Section 6105(a)(1) of Title 27 of the  
13 Pennsylvania Consolidated Statutes is amended to read:  
14 § 6105. Agencies.

15 (a) The Department of Conservation and Natural Resources.--

16 (1) The Department of Conservation and Natural Resources  
17 shall utilize money it receives from the fund for the  
18 following purposes:

19 (i) To rehabilitate, repair and develop State park  
20 and State forest lands and facilities and the acquisition  
21 of interior lands within State parks and State forests.

22 (ii) To provide grants to a county or other  
23 municipality, council of governments, conservation  
24 districts and authorized organizations for the purpose of  
25 planning, education, acquisition, development,  
26 rehabilitation and repair of greenways, recreational  
27 trails, including connection between trails, open space,  
28 natural areas, river corridors and access to lakefronts  
29 or riverfronts, watersheds, community [and heritage]  
30 parks and recreation facilities; community conservation  
31 and beautification projects; forest conservation[;],  
32 including conservation of forested riparian buffers;  
33 heritage areas; and other conservation and recreation  
34 purposes. Grants under this paragraph may not be used by  
35 an authorized organization for land acquisition unless

the authorized organization obtains the approval of all counties in which the land is situated. Grant moneys may also be used for the acquisition of farmland for the purposes set forth in this paragraph.

(iii) To provide grants to a county or other municipality and authorized organizations for the purpose of research, planning, inventories and technical assistance intended to protect and conserve the biological diversity of this Commonwealth.

\* \* \*

Section 2. Title 27 is amended by adding a chapter to read:

CHAPTER 67

CLEAN WATER PROCUREMENT PROGRAM

Sec.

6701. Short title of chapter.

6702. Definitions.

6703. Watershed Innovation and Improvement Fund.

6704. Pennsylvania Clean Water Procurement Program.

6705. Duties of department.

6706. Regulations.

§ 6701. Short title of chapter.

This chapter shall be known and may be cited as the Pennsylvania Clean Water Procurement Program Act.

§ 6702. Definitions.

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

"Aggregator." A person that arranges for the sale of nutrient and sediment reductions generated by another person. The term includes an agricultural business acting on behalf of farmers via a production contract or cooperative membership.

"Authority." The Pennsylvania Infrastructure Investment Authority.

"Chesapeake Bay TMDL." The Chesapeake Bay TMDL for nitrogen, phosphorus and sediment as established by the United States Environmental Protection Agency on December 29, 2010.

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

"Fund." The Watershed Innovation and Improvement Fund established under section 6703 (relating to Watershed Innovation and Improvement Fund).

"Nutrient." Nitrogen or phosphorous.

"Nutrient or sediment reductions." Nitrogen, phosphorus and sediment pollution load reductions to surface water and groundwater resources that can be directly measured and quantified or modeled by any of the following:

(1) The Chesapeake Bay Program Watershed Model.

(2) Any other model approved by the United States Environmental Protection Agency or the department, including, but not limited to, nonpoint source phosphorous, nitrogen and sediment loads to surface water and groundwater resources and

pathogens using quantification methodologies and modeling tools.

"Program." The Pennsylvania Clean Water Procurement Program established under section 6704 (relating to Pennsylvania Clean Water Procurement Program).

"Qualified bidder." A bidder with an approved verification plan.

"Request for proposals." A request for competitive sealed proposals that define contract terms, future delivery dates and technical specifications that is issued by the authority, in conjunction with the department, to procure verified nutrient and sediment reductions that count toward achievement of the Chesapeake Bay TMDL nutrient and sediment pollutant reduction requirements.

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

"Small farm." An agricultural operation that is not large enough to meet the definition of CAFO as set forth in 25 Pa. Code § 92a.2 (relating to definitions).

"TMDL." Total maximum daily load.

"Verification plan." As follows:

(1) A plan that details the method that a qualified bidder will use to produce verified nutrient or sediment reductions, including mass balance calculation.

(2) In the case of an aggregator, a plan as specified under paragraph (1) that describes the process that the aggregator will use to certify verified nutrient or sediment reductions from approved contracting parties under section 6704(b)(4), including the aggregator's contract farmers, cooperative members or other similar entities.

"Verified nutrient and sediment reductions." Nutrient or sediment reductions measured in pounds created by an action, activity or technology pursuant to a verification plan and approved by the department.

§ 6703. Watershed Innovation and Improvement Fund.

(a) Establishment.--The Watershed Innovation and Improvement Fund is established in the State Treasury.

(b) Source of funding.--The fund shall consist of appropriations made to the fund and interest earned on money in the fund.

(c) Appropriation.--The sum of \$20,000,000 is hereby appropriated from the General Fund to the fund for the purposes specified under subsection (d).

(d) Use of fund.--The following apply:

(1) Except as provided under paragraph (2), money in the fund shall be used by the authority for the purchase of verified nutrient and sediment reductions under section 6704 (relating to Pennsylvania Clean Water Procurement Program).

(2) No more than 5% of the money in the fund may be used by the department and the authority to implement the program.

§ 6704. Pennsylvania Clean Water Procurement Program.

1     (a) Establishment.--The Pennsylvania Clean Water Procurement  
2 Program is established and shall provide for the purchase of  
3 verified nutrient and sediment reductions from approved  
4 contracting parties through a competitive sealed proposal  
5 procurement procedure consistent with 62 Pa.C.S. Pt. I (relating  
6 to Commonwealth Procurement Code) or any other competitive  
7 bidding process determined to be appropriate by the authority.

8     (b) Duties of authority.--The authority shall have all of  
9 the following duties:

10         (1) Within 60 days of an appropriation to the fund, in  
11 consultation with the department, issue a request for  
12 proposals or initiate a competitive bidding process under 62  
13 Pa.C.S. Pt. I for the supply of long-term nutrient and  
14 sediment reductions for future delivery to accelerate  
15 progress towards the achievement of the Chesapeake Bay TMDL  
16 nutrient and sediment pollutant reduction requirements.

17         (2) Administer the fund for the purpose of implementing  
18 this chapter.

19         (3) Evaluate the responses to the request for proposals  
20 or competitive bidding process under paragraph (1) and  
21 execute contracts with verified nutrient and sediment  
22 reduction producers or aggregators. Contracts under this  
23 paragraph shall be for at least 10 years and shall provide  
24 sufficient time for the construction and permitting of  
25 facilities and the delivery of verified nutrient and  
26 sediment reductions.

27         (4) Require a contracting party for the supply of long-  
28 term nutrient and sediment reductions to make available 20%  
29 of its total nutrient or sediment reduction allotment for  
30 participation for 30 days by small farms or aggregators of  
31 small farms. The purpose of this requirement is to enable  
32 small farms or aggregators of small farms to sell their  
33 credits from modeled reductions into the nutrient or  
34 sediment reduction allotment and receive the winning bid  
35 price without participating in the request for proposals or  
36 competitive bidding process under paragraph (1).

37         (5) Purchase verified nutrient and sediment reductions  
38 in accordance with the terms of the contracts under  
39 paragraph (3) after the department has verified the nutrient  
40 and sediment reductions. The verification of nutrient and  
41 sediment reductions shall be performed monthly, based upon  
42 required data submissions from nutrient credit generators  
43 certified by the department.

44     (c) Publicly funded reductions.--Nutrient and sediment  
45 reductions funded entirely by public grants are not eligible to  
46 bid or respond to the request for proposals or competitive  
47 bidding process under subsection (b)(1). If a percentage of  
48 nutrient and sediment reductions are funded partially by public  
49 grants, the percentage of the remaining nutrient and sediment  
50 reductions that are eligible to bid or respond to a request for  
51 proposals or competitive bidding process under subsection (b)(1)

1 shall be commensurate with the percentage of the reduction  
2 activity that is not provided by public grants.

3 (d) Criteria.--The criteria for the evaluation of responses  
4 to the request for proposals or competitive bidding process  
5 under subsection (b)(1) and the weighted percentage to be  
6 applied to each factor in the evaluation of the responses shall  
7 be published by the department as part of the request for  
8 proposals or competitive bidding process under subsection (b)(1)  
9 and include, but not be limited to, all of the following:

10 (1) The environmental and recreational benefits to this  
11 Commonwealth and local communities resulting from the  
12 nutrient and sediment reduction activities.

13 (2) The cost effectiveness of the proposed nutrient and  
14 sediment reduction activity.

15 (3) Any additional criteria determined relevant and  
16 necessary by the department.

17 (e) Annual report.--The authority shall publish and make  
18 available to the public an annual report on the program  
19 detailing all of following information for the prior year:

20 (1) The total cost for the program.

21 (2) The nutrient and sediment reduction activities  
22 implemented.

23 (3) The verified nutrient and sediment reductions  
24 achieved towards the satisfaction of the Chesapeake Bay TMDL  
25 nutrient and sediment pollutant reduction requirements.

26 (4) The total cost for each verified nutrient and  
27 sediment reduction.

28 § 6705. Duties of department.

29 The department shall have all of the following duties:

30 (1) Administer the program and take any action necessary  
31 to effectuate the purposes of this chapter.

32 (2) Verify the generated nutrient and sediment load  
33 reductions achieved by a contracting party under section  
34 6704(b)(4) (relating to Pennsylvania Clean Water Procurement  
35 Program).

36 (3) Review and approve the verification plans and mass  
37 balance calculations submitted with the responses to the  
38 request for proposals or competitive bidding process under  
39 section 6704(b)(1) and advise the authority regarding the  
40 acceptability of the verification plans and mass balance  
41 calculations.

42 (4) Evaluate the responses to the request for proposals  
43 or competitive bidding process based on the criteria under  
44 section 6704(d), other than the price considerations, and  
45 advise the authority regarding the acceptability of the  
46 responses.

47 § 6706. Regulations.

48 The department may promulgate regulations necessary to  
49 administer the provisions of this chapter.

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