AN ACT

Providing for the creation of a major watershed improvement program, for establishment of a verified TMDL parameter credit program, for the powers and duties of the Department of Environmental Protection and the Pennsylvania Infrastructure Investment Authority and for completion of a study by the Legislative Budget and Finance Committee.

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

Section 1. Short title.

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

Section 2. Definitions.

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

"Board." The Environmental Quality Board.

"Budget Office." The Governor's Office of the Budget.

"Department." The Department of Environmental Protection of the Commonwealth.
"Fund." The Major Watershed Improvement Fund.

"Major watershed." As follows:

(1) The following watersheds located in this Commonwealth and designated by the Department of Environmental Protection as major watersheds:

(i) Delaware.

(ii) Genesee.

(iii) Lake Erie.

(iv) Ohio.

(v) Potomac.

(vi) Susquehanna.

(2) A watershed located in this Commonwealth that may be designated as a major watershed on or after the effective date of this section.

"Nutrient." Nitrogen or phosphorus.

"Participating authority." A water, sewer, water and sewer or storm water management authority that serves a participating municipality.

"Participating municipality." A city, borough, incorporated town, township or home rule municipality identified by the Department of Environmental Protection as being wholly or partially located within a major watershed. The term does not include a county.

"PENNVEST." The Pennsylvania Infrastructure Investment Authority.

"Program." The Major Watershed Improvement Program.

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

"TMDL." Total maximum daily load.

"TMDL parameter." Nutrient or sediment for which a TMDL...
TOTAL MAXIMUM DAILY LOAD (TMDL) has been established or approved by the United States Environmental Protection Agency under section 303 of the Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1313) and made applicable to a major watershed.

"TMDL parameter credit." The unit of compliance that corresponds with a verified pound of reduction of a TOTAL MAXIMUM DAILY LOAD (TMDL) parameter.

"UNMET TMDL PARAMETER." THE DIFFERENCE BETWEEN A TOTAL MAXIMUM DAILY LOAD (TMDL) IMPLEMENTATION GOAL AND PROGRESS THAT HAS BEEN ACHIEVED OR IS REASONABLY EXPECTED TO BE ACHIEVED THROUGH EXISTING REGULATORY OR INCENTIVE-BASED PROGRAMS.

"Verified TMDL parameter credit." The unit of compliance that corresponds with a verified pound of reduction of a TOTAL MAXIMUM DAILY LOAD (TMDL) parameter as determined by the department.

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

Section 3. Major Watershed Improvement Program.

(a) Establishment.--There is established a Major Watershed Improvement Program which shall consist of the purchase of verified TMDL parameter credits by PENNVEST through a program administered by the department and PENNVEST.

(b) Contracts with TMDL parameter credit sellers.--

(1) The following shall apply:

(i) No later than 30 days following the publication of temporary regulations by the board under section 5 and no later than June 1 of each year thereafter when required or necessary to meet an unmet TMDL parameter, the department shall publish in the Pennsylvania Bulletin a notice containing an updated forecast of the unmet TMDL parameter.
parameter planning targets for future water years
commencing the year after the date of publication.

(ii) No later than 60 days following publication of
the notice under subparagraph (i), PENNVEST shall issue,
in consultation with the department, a request for
proposals under 62 Pa.C.S. Pt. I (relating to
Commonwealth Procurement Code) for long-term purchase of
verified TMDL parameter credits from interested parties,
including private entities, participating authorities and
participating municipalities, in order to meet the unmet
TMDL parameter planning targets for those water years
included in the notice, as projected by the department
and contained in impaired surface waters listings and
Total Maximum Daily Load amounts in any watershed
implementation plan required on or after the effective
date of this section by the United States Environmental
Protection Agency under the Water Pollution Control Act

(iii) A request for proposal under subparagraph (ii)
shall be for a minimum term of 10 years and shall allow
sufficient time for the delivery of verified reductions
of TMDL parameters consistent with the time frame
necessary for the permitting and development of public or
private projects.

(2) Factors to be considered as part of the criteria for
evaluation of responses received to a request for proposals
and the weighted percentage to be applied to each factor
shall be included by the department in temporary regulations
published under section 5 and in final regulations and shall
include:
(i) Cost.

(ii) Environmental and recreational benefits resulting from the TMDL parameter to this Commonwealth and local communities, including verified TMDL parameter reductions to freshwater resources of this Commonwealth and the applicable major watershed.

(III) RESPONSES ADDRESSING THE GENERATION OF VERIFIED CREDITS FOR NUTRIENTS OR REDUCTIONS IN SEDIMENT WHICH ADDRESS MULTIPLE TMDL PARAMETERS.

(iii) Additional criteria determined relevant by the department.

(3) IN ESTABLISHING THE PROGRAM, THE DEPARTMENT SHALL DEDICATE 25% OF ANY REQUEST FOR PROPOSAL TO ANY FARMS OR ENTITIES REPRESENTING ANY FARMS WHERE SUCH FARMS' GROSS RECEIPTS ARE LESS THAN $750,000, SO THAT THESE FARMS MAY COMPETITIVELY BID FOR TMDL PARAMETER REDUCTIONS THROUGH IMPLEMENTATION OF BEST MANAGEMENT PRACTICES THAT ALSO ADDRESS REDUCTIONS IN TMDL PARAMETERS TO FRESHWATER RESOURCES AS NOTED IN PARAGRAPH (2)(II).

(c) Participation in program.--

(1) Nutrients, which have been identified as a TMDL parameter where significant cost savings can be achieved pursuant to a Legislative Budget and Finance Committee study released in January 2013 and titled "A Cost Effective Alternative Approach to Meeting Pennsylvania's Chesapeake Bay Nutrient Reduction Targets," shall be included in the program.

(2) Additional major watersheds and TMDL parameters may be added to the program by the department upon publication in the Pennsylvania Bulletin of a notice which includes a
statement by the department of the rationale for each addition and, for TMDL parameters, an analysis indicating that the inclusion of TMDL parameters in the program will result in cost savings as a result of competitive bidding.

Section 4. Major Watershed Improvement Fund.

(a) Establishment.—There is created within the State Treasury a special fund to be known as the Major Watershed Improvement Fund.

(b) Deposits.—The following shall be deposited into the fund:

(1) any appropriation made to the program; and

(2) Any other existing or future Federal or State appropriation or other money determined by the department, in consultation with the Budget Office, to be available for the program.

(B.1) LIMITATIONS ON FUNDING.—THE FUND SHALL NOT RECEIVE MONEYS ALREADY APPROPRIATED FOR CONSERVATION PROGRAMS OR MONEYS ALREADY APPROPRIATED FOR THE REDUCTION OF NUTRIENTS OR SEDIMENT INTO WATER RESOURCES OF PENNSYLVANIA OR DOWNSTREAM OF PENNSYLVANIA.

(c) Use.—Money in the fund shall be used by PENNVEST for the purchase of verified TMDL parameter credits under section 3(b).

(d) Issuance of request for proposals.—Any request for a proposal under section 3 may only be issued upon certification by the department and the Budget Office that money has been identified and is available to be deposited in the fund to pay for costs associated with issuance of a request for proposals, including payments for long-term purchase of verified TMDL parameter credits. A notice containing the certification shall
be published by the department in the Pennsylvania Bulletin no
later than 30 days following issuance of the certification.
Section 5. Temporary regulations REGULATIONS. (a) Promulgation.--In order to facilitate the prompt-
implementation of this act, temporary regulations may be-
promulgated by the board under this section THE BOARD SHALL HAVE THE AUTHORITY TO PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS ACT. Prior to adoption, a draft of the temporary regulations shall be published in the Pennsylvania Bulletin and subject to public comment for a period of 30 days. Following completion of the public comment period and approval by the board, temporary regulations shall be published in the Pennsylvania Bulletin. The temporary regulations shall expire no later than two years following their publication. The temporary regulations shall not be subject to:

   (1) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.


   (3) Sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

   (b) Expiration. The authority of the board to adopt temporary regulations under subsection (a) shall expire two years after the effective date of this section. Regulations adopted after this period shall be promulgated as provided by law.

   (c) Draft.--The board shall publish draft temporary regulations pursuant to subsection (a) in the Pennsylvania Bulletin...
Bulletin no later than 60 days following publication of the notice required under section 4(d).

Section 6. Legislative Budget and Finance Committee funding study.

(a) Scope.--The Legislative Budget and Finance Committee shall conduct a study of possible sources of funding for the program in addition to sources authorized to be deposited into the fund under section 4(b). THE REPORT SHALL NOT INCLUDE SOURCES OF FUNDING WHICH ARE CURRENTLY APPROPRIATED FOR CONSERVATION PROGRAMS OR MONEYS ALREADY APPROPRIATED FOR THE REDUCTION OF NUTRIENTS OR SEDIMENT INTO WATER RESOURCES OF PENNSYLVANIA OR DOWNSTREAM OF PENNSYLVANIA.

(b) Report and recommendations.--A report and recommendations shall be presented by the Legislative Budget and Finance Committee to the department, PENNVEST, the Environmental Resources and Energy Committee, Agriculture and Rural Affairs Committee and Local Government Committee of the Senate and the Environmental Resources and Energy Committee, Agriculture and Rural Affairs Committee and Local Government Committee of the House of Representatives within six months following the effective date of this section.

Section 20. Effective date.

This act shall take effect in 30 days.