

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2581 Session of
1982

INTRODUCED BY STEVENS, JUNE 8, 1982

REFERRED TO COMMITTEE ON CONSERVATION, JUNE 8, 1982

AN ACT

1 Amending the act of July 7, 1980 (P.L.380, No.97), entitled "An
2 act providing for the planning and regulation of solid waste
3 storage, collection, transportation, processing, treatment,
4 and disposal; requiring municipalities to submit plans for
5 municipal waste management systems in their jurisdictions;
6 authorizing grants to municipalities; providing regulation of
7 the management of municipal, residual and hazardous waste;
8 requiring permits for operating hazardous waste and solid
9 waste storage, processing, treatment, and disposal
10 facilities; and licenses for transportation of hazardous
11 waste; imposing duties on persons and municipalities;
12 granting powers to municipalities; authorizing the
13 Environmental Quality Board and the Department of
14 Environmental Resources to adopt rules, regulations,
15 standards and procedures; granting powers to and imposing
16 duties upon county health departments; providing remedies;
17 prescribing penalties; and establishing a fund," limiting the
18 powers and duties of the department and providing for
19 referendums on the location of hazardous waste facilities.

20 The General Assembly of the Commonwealth of Pennsylvania

21 hereby enacts as follows:

22 Section 1. Sections 104 and 105, act of July 7, 1980
23 (P.L.380, No.97), known as the "Solid Waste Management Act," are
24 amended to read:

25 Section 104. Powers and duties of the department.

26 (a) The department in consultation with the Department of

1 Health regarding matters of public health significance shall
2 have the power and its duty shall be to:

3 (1) administer the solid waste management program
4 pursuant to the provisions of this act;

5 (2) cooperate with appropriate Federal, State,
6 interstate and local units of government and with appropriate
7 private organizations in carrying out its duties under this
8 act;

9 (3) develop a Statewide solid waste management plan in
10 cooperation with local governments, the Department of
11 Community Affairs, the Department of Commerce and the State
12 Planning Board; emphasis shall be given to area-wide
13 planning;

14 (4) provide technical assistance to municipalities
15 including the training of personnel;

16 (5) initiate, conduct, and support research,
17 demonstration projects, and investigations, and coordinate
18 all State agency research programs, pertaining to solid waste
19 management systems;

20 (6) regulate the storage, collection, transportation,
21 processing, treatment and disposal of solid waste;

22 (7) issue permits, licenses and orders, and specify the
23 terms and conditions thereof, and conduct inspections and
24 abate public nuisances to implement the purposes and
25 provisions of this act and the rules, regulations and
26 standards adopted pursuant to this act;

27 (8) require the payment of a fee according to a standard
28 uniform schedule of permit and license fees for the
29 processing of any permit or license application. Permit and
30 license fees shall be in an amount sufficient to cover the

1 aggregate cost of reviewing all applications, acting on all
2 applications, processing all renewals, and administering all
3 the terms and conditions of all permits and all provisions of
4 this act relating thereto;

5 (9) serve as the agency of the Commonwealth for the
6 receipt of moneys from the Federal Government or other public
7 agencies or private agencies and expend such moneys for
8 studies and research with respect to, and for the enforcement
9 and administration of, the purposes and provisions of this
10 act and the rules and regulations promulgated thereunder;

11 (10) institute in a court of competent jurisdiction,
12 proceedings against any person or municipality to compel
13 compliance with the provisions of this act, any rule or
14 regulation issued thereunder, any order of the department, or
15 the terms and conditions of any permit;

16 (11) institute prosecutions against any person or
17 municipality under this act;

18 (12) appoint such advisory committees as the secretary
19 deems necessary and proper to assist the department in
20 carrying out the provisions of this act. The secretary is
21 authorized to pay reasonable and necessary expenses incurred
22 by the members of such advisory committees in carrying out
23 their functions;

24 (13) do any and all other acts and things not
25 inconsistent with any provision of this act, which it may
26 deem necessary or proper for the effective enforcement of
27 this act and the rules or regulations which may be
28 promulgated hereunder after consulting with the Department of
29 Health regarding matters of public health significance;

30 (14) develop, prepare and submit to the Environmental

1 Quality Board, within two years after the effective date of
2 this act, its proposed Pennsylvania Hazardous Waste
3 Facilities Plan;

4 (15) develop, prepare and publish in the Pennsylvania
5 Bulletin six months after the effective date of this act its
6 preliminary environmental, social and economic criteria and
7 standards for siting hazardous waste treatment and disposal
8 facilities;

9 (16) require the payment of such annual inspection fees
10 and perform such inspections of hazardous waste treatment and
11 disposal facilities as are provided for in the Environmental
12 Quality Board guidelines adopted pursuant to section 105(e).
13 This provision shall not be construed to limit or restrict
14 the department's inspection powers as elsewhere set forth in
15 this act; and

16 (17) administer funds collected by the United States
17 Government and granted to Pennsylvania for the purpose of
18 closing, maintaining or monitoring abandoned or closed
19 hazardous waste storage, treatment or disposal sites and for
20 the purpose of action to abate or prevent pollution at such
21 sites. If Congress has not authorized the collection of such
22 funds within one year after the effective date of this act,
23 or if the department finds that the funding program
24 authorized is inadequate, the department shall transmit to
25 the General Assembly within 15 months after the effective
26 date of this act a proposal for the establishment of a fund
27 in Pennsylvania comprised of surcharges collected from users
28 of hazardous waste storage, treatment and disposal facilities
29 excluding captive facilities in the Commonwealth. Such fund
30 shall be proposed for the purpose of closing, maintaining or

1 monitoring hazardous waste storage, treatment or disposal
2 sites excluding captive facilities which have been abandoned
3 or which have been closed for at least 20 years, and for the
4 purpose of taking action to abate or prevent pollution at
5 such closed or abandoned sites.

6 (b) The provisions of this section shall not be construed to
7 supersede an ordinance of a political subdivision.

8 Section 105. Powers and duties of the Environmental Quality
9 Board.

10 (a) The Environmental Quality Board shall have the power and
11 its duty shall be to adopt the rules and regulations of the
12 department to accomplish the purposes and to carry out the
13 provisions of this act, including but not limited to the
14 establishment of rules and regulations relating to the
15 protection of safety, health, welfare and property of the public
16 and the air, water and other natural resources of the
17 Commonwealth.

18 (b) The Environmental Quality Board shall, by regulation,
19 set the term of expiration of permits and licenses appropriate
20 to the category of the permit or license.

21 (c) The Environmental Quality Board shall have the power and
22 its duty shall be to adopt rules and regulations and standards
23 to provide for the coordination of administration and
24 enforcement of this act between the Department of Environmental
25 Resources and county health departments where they exist.

26 (d) The Environmental Quality Board shall have the power and
27 its duty shall be to adopt a Pennsylvania Hazardous Waste
28 Facilities Plan.

29 (e) The Environmental Quality Board shall have the power and
30 its duty shall be to adopt guidelines which shall:

1 (1) Provide for the necessary inspection of hazardous
2 waste treatment and disposal facilities considering the
3 degree of hazard and the quantity of wastes handled.

4 (2) Establish an inspection fee based on the frequency
5 of inspection provided for in paragraph (1).

6 (3) Encourage cooperative agreements between local
7 communities and the hazardous waste facility operators to
8 minimize local concerns regarding the operation of the
9 facility.

10 (f) In addition to exercising its powers and duties under
11 section 1920-A of the act of April 9, 1929 (P.L.177, No.175),
12 known as "The Administrative Code of 1929," the Environmental
13 Quality Board shall have the power and its duty shall be to
14 assist in the implementation of the Pennsylvania Hazardous Waste
15 Facilities Plan through the issuance of certificates of public
16 necessity for the establishment of hazardous waste treatment or
17 disposal facilities. Any person prior to applying for a
18 certificate of necessity shall have obtained all permits from
19 the department of the Federal agency authorized to issue such
20 permits in the Commonwealth and shall have implemented all
21 impact assessments and public participation programs. In issuing
22 certificates of public necessity the Environmental Quality Board
23 shall:

24 (1) Prescribe the form and content of applications for a
25 certificate of public necessity to operate a hazardous waste
26 treatment or disposal facility.

27 (2) Require the payment of a fee for the processing of
28 any application for a certificate of public necessity. Fees
29 shall be in an amount sufficient to cover the aggregate cost
30 of reviewing the application and acting on it.

1 (3) Issue such certificates of public necessity for the
2 operation of hazardous waste treatment and disposal
3 facilities as are warranted by:

4 (i) the extent to which the facility is in
5 conformance with the Pennsylvania Hazardous Waste
6 Facilities Plan;

7 (ii) the impact of the proposed facility on adjacent
8 populated areas and areas through which wastes are
9 transported to such facility;

10 (iii) the impact on the borough, township, town or
11 city in which the facility is to be located in terms of
12 health, safety, cost and consistency with local planning;
13 and

14 (iv) the extent to which the proposed facility has
15 been the subject of a public participation program in
16 which citizens have had a meaningful opportunity to
17 participate in evaluation of alternate sites or
18 technologies, development of siting criteria,
19 socioeconomic assessment, and all other phases of the
20 site selection process.

21 (4) Provide the public with opportunities to comment
22 upon the application for certificate of public necessity and
23 consider the comments submitted.

24 (5) Accept applications for certificates of public
25 necessity only from persons or municipalities which have
26 obtained the necessary solid waste treatment or disposal
27 permits from the department or from the Federal agency
28 authorized to issue such permits in the Commonwealth.

29 (g) In carrying out the powers and duties set forth in this
30 subsection, the board may consult with any person and hold any

1 hearings which it deems necessary and proper to enable it to
2 render a decision to issue or deny the certificate of public
3 necessity and in any such hearing the board shall be represented
4 by a minimum of three members.

5 (h) Issuance of a certificate of public necessity under this
6 section shall suspend and supersede any and all local laws which
7 would preclude or prohibit the establishment of a hazardous
8 waste treatment or disposal facility at said site, including
9 zoning ordinances. The suspension and supersession is explicitly
10 extended to any person to whom such certificates issued for the
11 purpose of hazardous waste treatment or disposal, and to the
12 successors and assigns of such person.

13 (i) During all deliberations of the board a representative
14 of the county and township, borough or municipality affected
15 will be invited to participate.

16 (j) Regulations promulgated under this section concerning
17 the generation, transportation, storage, treatment and disposal
18 of hazardous wastes may, to the extent consistent with Federal
19 regulations promulgated under the Resource Conservation and
20 Recovery Act, establish classes of hazardous wastes taking into
21 account the relative availability to the environment of the
22 hazardous constituents in waste materials and the degree of
23 hazard thereby presented.

24 (k) The provisions of this section shall not be construed to
25 supersede an ordinance of a political subdivision.

26 Section 3. The act is amended by adding a section to read:
27 Section 109. Referendum on location of hazardous waste
28 _____ facilities.

29 Whenever it is proposed to locate a hazardous waste facility
30 in a political subdivision under the provisions of this act its

1 governing body may place the matter of its proposed location on
2 the ballot for the primary or general election immediately
3 succeeding its proposal. The decision on the referendum shall be
4 binding on the Commonwealth and the political subdivision.

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