

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2129 Session of
1993

INTRODUCED BY S. H. SMITH, JADLOWIEC, WOZNIAK, LYNCH, HUTCHINSON
AND CHADWICK, OCTOBER 6, 1993

REFERRED TO COMMITTEE ON CONSERVATION, OCTOBER 6, 1993

AN ACT

1 Amending the act of January 24, 1966 (1965 P.L.1535, No.537),
2 entitled, as amended, "An act providing for the planning and
3 regulation of community sewage systems and individual sewage
4 systems; requiring municipalities to submit plans for systems
5 in their jurisdiction; authorizing grants; requiring permits
6 for persons installing such systems; requiring disclosure
7 statements in certain land sale contracts; authorizing the
8 Department of Environmental Resources to adopt and administer
9 rules, regulations, standards and procedures; creating an
10 advisory committee; providing remedies and prescribing
11 penalties," further providing for powers and duties of local
12 agencies.

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

15 Section 1. Section 8 of the act of January 24, 1966 (1965
16 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities
17 Act, amended or added July 22, 1974 (P.L.621, No.208) and July
18 1, 1989 (P.L.124, No.26), is amended to read:

19 Section 8. Powers and Duties of Local Agencies.--(a) County
20 or joint county departments of health shall administer section 7
21 of this act in the area subject to their jurisdiction. In all
22 other areas, section 7 of this act shall be administered by each

1 municipality unless said municipality has transferred or
2 delegated the administration of section 7 of this act to another
3 local agency, or is cooperating in said administration, in
4 conformance with the act of July 12, 1972 (P.L.762, No.180), and
5 said other local agency has accepted administration of section 7
6 of this act. Municipalities are hereby encouraged jointly to
7 administer section 7 of this act on a county or joint county
8 level. No local agency shall voluntarily surrender
9 administration of the provisions of this act except to another
10 local agency pursuant to this section.

11 (b) Each local agency in addition to the powers and duties
12 conferred upon it by existing law shall have the power and the
13 duty:

14 (1) To employ or contract with individuals, companies or
15 corporations to perform the services of sewage enforcement
16 officers to administer the provisions of section 7 of this act
17 in accordance with the rules and regulations of the department.
18 No person shall be employed or contracted as a sewage
19 enforcement officer unless said person has been certified
20 "qualified" by the department pursuant to standards set by the
21 Environmental Quality Board. No person shall be employed or
22 contracted as a sewage enforcement officer to administer the
23 provisions of section 7 of this act with respect to a community
24 sewage system for which he was or is the contractor. In such a
25 case, the local agency shall employ or contract with a certified
26 "qualified" enforcement officer from an adjoining local agency
27 to administer the provisions of section 7 of this act with
28 respect to the particular community sewage system.

29 (1.1) To have at least one alternate sewage enforcement
30 officer as authorized by the local agency to work in the

1 municipality or municipalities of the local agency.

2 (2) To employ or contract with other technical and
3 administrative personnel necessary to support the activities of
4 the sewage enforcement officer and the local agency.

5 (3) To adopt by resolution a list of individuals who are
6 authorized by companies or corporations under contract with the
7 local agency to perform the services of sewage enforcement
8 officer.

9 [(3)] (4) To set rates of compensation, maintain offices,
10 purchase necessary equipment and supplies.

11 [(4)] (5) To set and collect application fees. The fee
12 schedule may establish different charges for various types of
13 individual sewage systems and community sewage systems
14 consistent with the administrative costs of reviewing the
15 application and supervising the installation of said system.

16 [(5)] (6) To make or cause to be made, such inspections and
17 tests as may be necessary to carry out the provisions of section
18 7 of this act, and its authorized representatives shall have the
19 right to enter upon lands for said purpose.

20 [(6)] (7) To cease issuing permits in designated areas after
21 notice and opportunity for departmental hearing except for the
22 abatement of existing health hazards or public nuisance,
23 notwithstanding the provisions of section 7, upon receipt of a
24 department order pursuant to section 10(7) of this act.

25 [(7)] (8) To proceed under section 12 of this act to
26 restrain violations of this act and the rules and regulations
27 adopted hereunder.

28 [(8)] (9) To submit such reports and data to the department
29 as the department may by its rules and regulations or by order
30 require.

1 [(9)] (10) To adopt and maintain standards and procedures
2 for applications and permits identical to those of the
3 department. Any other rules or regulations which the local
4 agency deems necessary in order to administer and enforce
5 section 7 may only be adopted if they are consistent with this
6 act and the rules and regulations adopted hereunder.

7 (c) Sewage enforcement officers employed or contracted by
8 local agencies in accordance with this act, in performing their
9 duties as required under this act, may accept prior testing data
10 and information obtained by a previous sewage enforcement
11 officer, provided that the site and prior testing meets all of
12 the following criteria and the sewage enforcement officer
13 certifies the same to the local agency:

14 (1) The soil testing performed on the property in question
15 has not been cited in a revocation, suspension or other
16 agreement to surrender certification which indicates violations
17 of soil testing procedures by the previous sewage enforcement
18 officer.

19 (2) The exact location of the test to be used for issuance
20 of a permit must be verifiable by at least one of the following
21 methods:

22 (i) Location of the test pit and percolation hole remnants
23 on the lot by the current sewage enforcement officer.

24 (ii) The existence of recorded measurements from at least
25 two permanent landmarks on the property in question establishing
26 the original test location.

27 (iii) A scale drawing of the lot or property in question
28 indicating the location of the tests by reference to at least
29 two permanent landmarks.

30 (iv) Identification of the exact location of the tests by

1 the prior sewage enforcement officer, provided that his or her
2 certification has not been revoked, suspended or voluntarily
3 surrendered to the department.

4 (3) Verification that the percolation test and soils
5 evaluation was conducted in accordance with the applicable
6 regulations.

7 (4) Soils description and percolation test data are
8 available and recorded on the prescribed form, or its
9 equivalent, in sufficient quantity and quality to be interpreted
10 by others.

11 (5) The soil probes were conducted within ten feet of the
12 proposed absorption area.

13 (6) The percolation test on the lot was performed on the
14 site of the proposed absorption area.

15 (7) The person who originally observed or conducted the
16 testing was certified under the current certification
17 requirements of this act.

18 (8) No inaccuracies or falsifications of the test data are
19 apparent or identifiable.

20 (9) No changes to the site have occurred since the time of
21 the original testing.

22 Section 2. This act shall take effect in 60 days.