

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2625 Session of
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INTRODUCED BY SCHRODER, HENNESSEY, REBER, L. I. COHEN, SEMMEL,
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ROSS, MILLER, E. Z. TAYLOR AND SHANER, MAY 13, 1998

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 13, 1998

AN ACT

1 Providing for intergovernmental cooperation, for preparation of
2 the comprehensive zoning plan, for zoning ordinance
3 provisions, for zoning purposes and for development and
4 implementation of an integrated water resources plan.

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

7 CHAPTER 1

8 GENERAL PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Municipal
11 Groundwater Resource Planning Act.

12 Section 102. Definitions.

13 (a) General rule.--The following words and phrases when used
14 in this act shall have the meanings given to them in this
15 section unless the context clearly indicates otherwise:

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

18 "Integrated water resources plan." A strategy to protect,

1 conserve and develop water resources within a watershed adopted
2 by one or more municipalities under Article VIII-B of the act of
3 July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
4 Municipalities Planning Code.

5 "MPC." The act of July 31, 1968 (P.L.805, No.247), known as
6 the Pennsylvania Municipalities Planning Code.

7 "River basin commission." A body politic and corporate
8 created as an agency and instrumentality of the governments that
9 are signatory parties to an interstate compact for the purpose
10 of conserving, utilizing, developing, managing and controlling
11 water and related resources.

12 "Water." The term includes groundwater and surface water.

13 "Watershed." The term includes:

14 (1) a region or area containing not fewer than ten
15 square miles drained by a river or other body of water,
16 whether natural or artificial; or

17 (2) a region or area designated as a subbasin by a river
18 basin commission or the Department of Environmental
19 Protection.

20 (b) Additional terms.--Any term used in this act not defined
21 in subsection (a) shall be governed by the definitions given in
22 section 107 of the act of July 31, 1968 (P.L.805, No.247), known
23 as the Pennsylvania Municipalities Planning Code, and the
24 definitions set forth in that act shall be deemed to be
25 incorporated into this act.

26 Section 103. Intergovernmental cooperation.

27 Governing bodies may utilize the authority granted under 53
28 Pa.C.S. Pt. III Subpt. D (relating to area government and
29 intergovernmental cooperation).

30 Section 104. Comprehensive plan.

1 A comprehensive plan adopted under Article III of the MPC
2 shall be consistent with an integrated water resources plan
3 adopted under Chapter 3.

4 Section 105. Zoning and municipal ordinances.

5 A zoning ordinance adopted under Article VI of the MPC may
6 provide for the protection, conservation and development of
7 water resources. Additional zoning classifications may be
8 created for the purpose of giving full effect to an integrated
9 water resources plan adopted under Chapter 3. Nothing in this
10 act shall invalidate any municipal ordinance adopted before the
11 effective date of this act for the purpose of regulating,
12 providing and preserving adequate water supplies, aquifers and
13 water resources.

14 CHAPTER 3

15 INTEGRATED WATER RESOURCES PLAN

16 Section 301. General powers.

17 For the purpose of protecting, conserving and developing
18 water resources within a watershed, the governing bodies of all
19 contiguous municipalities lying within or partially within the
20 watershed may cooperate, in accordance with this act, to enact,
21 amend and repeal an integrated water resources plan.

22 Section 302. Preparation of plan.

23 (a) Powers of joint commission.--An integrated water
24 resources plan may be prepared by a joint municipal planning
25 commission composed of members from all governing bodies located
26 within or partially within the watershed, and created under
27 Article XI of the MPC. In addition to the power to conduct a
28 water survey under section 209.1 of the MPC, the joint planning
29 commission shall have the power to do the following:

30 (1) Identify existing water resources, including water

resources that originate outside the watershed.

(2) Identify existing uses of water resources, including consumptive and conjunctive uses.

(3) Estimate future trends in uses of water, including population and land use projection.

(4) Predict the capacity of the watershed to provide adequate supplies to meet anticipated demands by both withdrawal and nonwithdrawal users.

(5) Establish limits and regulations for water withdrawal and uses entailing water withdrawal based upon sound hydrologic management of water and effective environmental protection as necessary to implement this act. The regulations and limits may be based on and vary according to, among other things, the location, zoning district and nature of the use, the proximity to and impact on existing water sources supplies and resources, the impact on the baseflow of streams within the watershed, including projected impact in drought or low flow conditions, and the relative extents to which a proposed use will deplete or recharge water resources.

(6) Catalog water resource shortfalls, potential conflicts among users and areas of the watershed that require special management.

(7) Consider points of discharge of wastewater to the subsurface and to rivers and streams.

(8) Propose programs and require procedures whereby hydrologic tests and impact studies are prepared for review in connection with certain uses, withdrawals or classes of use or withdrawal. These programs and procedures shall be based upon principles of sound hydrologic management of

1 water, effective environmental protection and efficient
2 management to address water resource problems and protect and
3 preserve water resources, supplies, aquifers and stream
4 flows.

5 (9) Propose a program for implementing the integrated
6 water resources plan that is consistent with the plan's
7 objectives and includes schedules for adoption of the plan by
8 participating municipalities and expected State and municipal
9 costs to implement the plan.

10 (b) Period covered.--The integrated water resources plan
11 shall specify the period covered by the plan and shall extend at
12 least five years but no more than ten years from the date of
13 adoption.

14 (c) Existing plans.--Existing water, wastewater and related
15 land resources plans, including flood plain management, storm
16 water management and soil conservation district plans, may be
17 fully utilized in developing the integrated water resources
18 plan. The joint planning commission shall not be required to
19 duplicate existing plans.

20 Section 303. Plan provisions.

21 (a) General rule.--An integrated water resources plan may be
22 made part of a joint municipal zoning ordinance containing
23 provisions to permit, prohibit, regulate, restrict and determine
24 such a plan and may contain the same elements authorized for a
25 municipal zoning ordinance by section 603 of the MPC as well as
26 contain the elements listed under section 302. However, an
27 integrated water resources plan may contain provisions
28 incorporating the elements set forth in section 302 even if it
29 is not made part of a joint municipal zoning ordinance.

30 (b) Application of certain provisions.--Section 605 of the

1 MPC shall apply to a water resources management plan. All areas
2 of municipalities that are parties to an integrated water
3 resources plan shall be covered by the plan.

4 Section 304. Preparation of plan.

5 The provisions of section 308 shall apply to the preparation
6 of an integrated water resources plan, except that a public
7 hearing on the plan shall be held within each municipality of
8 the proposed integrated water resources plan.

9 Section 305. Review by department.

10 (a) Submission of copies.--Upon completion of an integrated
11 water resources plan, the joint planning commission shall submit
12 a copy to each municipality within the watershed and to the
13 department for its review.

14 (b) Public notice.--Upon receipt, the department shall give
15 public notice published once each week for two successive weeks
16 in a newspaper of general circulation in the watershed of the
17 following:

18 (1) That an integrated water resources plan for the
19 watershed has been submitted to the department for review.

20 (2) That the integrated water resources plan is
21 available for public inspection at the locations specified in
22 the notice.

23 (3) That the department will receive public comment on
24 the integrated water resources plan until the date specified
25 in the notice.

26 (4) That a public hearing will be held on the integrated
27 water resources plan at a location within the watershed or
28 the nearest available location to host a public meeting on
29 the date and at a time specified in the notice.

30 (c) Conduct of hearing.--The department shall, upon the date

1 and at the time specified in the public notice or upon any
2 subsequent day or days to which it may adjourn the hearing,
3 receive testimony and hear arguments submitted in support of and
4 in opposition to the integrated water resources plan.

5 (d) Compliance.--The department shall review the integrated
6 water resources plan to ensure that it complies with this act,
7 does not conflict or interfere with other integrated water
8 resources plans, if any, adopted in the region and is consistent
9 with the State comprehensive water plan. The department may seek
10 review and input from the Delaware River Basin Commission as
11 appropriate.

12 (e) Action by department.--Within 180 days following the
13 conclusion of the public hearing on the integrated water
14 resources plan, the department shall do one of the following:

15 (1) Approve the plan as submitted by the joint planning
16 commission.

17 (2) Approve the plan as modified by the department.

18 (3) Disapprove the plan.

19 (4) Remit the plan with comments to the joint planning
20 commission for further investigation, study, survey and
21 planning.

22 Section 306. Adoption of plan.

23 Within 60 days following approval of an integrated water
24 resources plan by the department, each municipality that is a
25 party to the plan may enact the plan as an amendment to its
26 comprehensive plan and zoning ordinance and other land use
27 ordinances, if any. The integrated water resources plan shall be
28 effective only in those municipalities lying in whole or in part
29 within the watershed that adopt, by ordinance, the plan.

30 Section 307. Power to regulate uses.

1 Following adoption of an integrated water resources plan, all
2 municipalities within the watershed shall have the power to
3 regulate withdrawal limits and uses to implement the provisions
4 of the plan.

5 Section 308. Action by department under water laws.

6 The department shall take into account the provisions of an
7 integrated water resources plan when considering an application
8 for a permit under the act of June 24, 1939 (P.L.842, No.365),
9 referred to as the Water Rights Law, and the act of May 1, 1984
10 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water
11 Act.

12 Section 309. Grants and assistance.

13 The department shall provide grants and technical assistance
14 to municipalities to develop and implement integrated water
15 resources plans. The department shall establish, by regulation,
16 eligibility criteria and an application procedure for the
17 grants.

18 Section 310. Application of joint zoning provisions.

19 Except as otherwise provided in this chapter, the provisions
20 of Article VIII-A of the MPC shall apply to the development,
21 enactment, amendment and enforcement of an integrated water
22 resources plan.

23 CHAPTER 5

24 MISCELLANEOUS PROVISIONS

25 Section 501. Construction of act.

26 This act shall be construed in pari materia with the
27 following:

28 (1) The act of May 15, 1945 (P.L.547, No.217), known as
29 the Conservation District Law.

30 (2) The act of July 7, 1961 (P.L.518, No.268), known as

1 the Delaware River Basin Compact.

2 (3) The act of July 17, 1968 (P.L.368, No.181), referred
3 to as the Susquehanna River Basin Compact Law.

4 (4) The act of July 31, 1968 (P.L.805, No.247), known as
5 the Pennsylvania Municipalities Planning Code.

6 (5) The act of October 4, 1978 (P.L.851, No.166), known
7 as the Flood Plain Management Act.

8 (6) The act of October 4, 1978 (P.L.864, No.167), known
9 as the Storm Water Management Act.

10 (7) Other acts and parts of acts providing for
11 protection, conservation and management of water resources.

12 Section 502. Resolution of conflicts.

13 In the event of any conflict between the provisions of a
14 municipal zoning or other land use ordinance and the provisions
15 of an integrated water resources plan adopted by a municipality,
16 the provisions of the integrated water resources plan shall be
17 controlling.

18 Section 503. Preemption.

19 Nothing in any other acts or parts of acts identified in
20 section 501 or any regulations promulgated pursuant to the
21 authority thereof shall preempt or prevent the adoption of an
22 integrated water resource plan and regulations pursuant to the
23 authority of this act with respect to aquifers or water
24 resources subject to regulation under any other such act so long
25 as there is no direct conflict between regulations adopted
26 pursuant to this or other acts. Nothing herein shall prevent or
27 preempt the adoption of regulations pursuant to an integrated
28 water resources plan adopted under this act which are stricter
29 than those adopted pursuant to the authority of any other act or
30 authority identified in section 501 or otherwise existing on the

1 effective date of this section.

2 Section 504. Repeals.

3 All acts and parts of acts are repealed insofar as they are
4 inconsistent with this act.

5 Section 505. Effective date.

6 This act shall take effect in 60 days.