

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 293 Session of
2001

INTRODUCED BY GERLACH, COSTA, CONTI, KUKOVICH, LEMMOND, BOSCOLA,
BELL, HOLL AND O'PAKE, FEBRUARY 5, 2001

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 5, 2001

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," further providing for the purpose of the act;
21 adding certain definitions; further providing for preparation
22 of the comprehensive plan, for compliance by counties, for
23 zoning ordinance provisions and for zoning purposes; and
24 providing for development and implementation of an integrated
25 water resources plan.

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

28 Section 1. The title of the act of July 31, 1968 (P.L.805,
29 No.247), known as the Pennsylvania Municipalities Planning Code,

reenacted and amended December 21, 1988 (P.L.1329, No.170) and amended December 14, 1992 (P.L.815, No.131), is amended to read:

AN ACT

To empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; to protect, conserve and develop water resources by adopting integrated water resources plans; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for mediation; providing for transferable development rights; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts.

Section 2. Section 105 of the act, amended June 22, 2000 (P.L.495, No.68), is amended to read:

Section 105. Purpose of Act.--It is the intent, purpose and scope of this act to protect and promote safety, health and morals; to accomplish coordinated development; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and

1 social and cultural facilities, development and growth, as well
2 as the improvement of governmental processes and functions; to
3 guide uses of land and structures, type and location of streets,
4 public grounds and other facilities; to promote the conservation
5 of energy through the use of planning practices and to promote
6 the effective utilization of renewable energy sources; to
7 promote the preservation of this Commonwealth's natural and
8 historic resources and prime agricultural land; to encourage
9 municipalities to adopt municipal or joint municipal
10 comprehensive plans generally consistent with the county
11 comprehensive plan; to ensure that municipalities adopt zoning
12 ordinances which are generally consistent with the
13 municipality's comprehensive plan; to encourage the preservation
14 of prime agricultural land and natural and historic resources
15 through easements, transfer of development rights and rezoning;
16 to ensure that municipalities enact zoning ordinances that
17 facilitate the present and future economic viability of existing
18 agricultural operations in this Commonwealth and do not prevent
19 or impede the owner or operator's need to change or expand their
20 operations in the future in order to remain viable; to encourage
21 the revitalization of established urban centers; [and] to permit
22 municipalities to minimize such problems as may presently exist
23 or which may be foreseen and wherever the provisions of this act
24 promote, encourage, require or authorize governing bodies to
25 protect, preserve or conserve open land, consisting of natural
26 resources, forests and woodlands, any actions taken to protect,
27 preserve or conserve such land shall not be for the purposes of
28 precluding access for forestry; and to encourage the protection,
29 conservation and development of water resources.

30 Section 3. Section 107 of the act is amended by adding a

1 subsection to read:

2 Section 107. Definitions.--* * *

3 (c) The following words and phrases when used in Article
4 VIII-B shall have the meanings given to them in this subsection
5 unless the context clearly indicates otherwise:

6 "Department," the Department of Environmental Protection of
7 the Commonwealth.

8 "Integrated water resources plan," a strategy to protect,
9 conserve and develop water resources within a watershed adopted
10 by one or more municipalities under Article VIII-B.

11 "River basin commission," a body politic and corporate
12 established as an agency and instrumentality of the governments
13 that are signatory parties to an interstate compact for the
14 purpose of conserving, utilizing, developing, managing and
15 controlling water and related resources.

16 "Watershed," the term includes:

17 (1) a region or area containing not fewer than 25 square
18 miles drained by a river or other body of water, whether
19 natural or artificial; or

20 (2) a region or area designated as a sub-basin by a river
21 basin commission.

22 Section 4. Section 301(b) of the act, amended June 22, 2000
23 (P.L.495, No.68), is amended to read:

24 Section 301. Preparation of Comprehensive Plan.--* * *

25 (b) The comprehensive plan shall include a plan for the
26 reliable supply of water, considering current and future water
27 resources availability, uses and limitations, including
28 provisions adequate to protect water supply sources. Any such
29 plan shall be generally consistent with an integrated water
30 resources plan adopted under Article VII-B, the State Water Plan

1 and any applicable water resources plan adopted by a river basin
2 commission. It shall also contain a statement recognizing that:

3 (1) Lawful activities such as extraction of minerals may
4 impact water supply sources and such activities are governed
5 by statutes regulating mineral extraction that specify
6 replacement and restoration of water supplies affected by
7 such activities.

8 (2) Commercial agriculture production may impact water
9 supply sources.

10 * * *

11 Section 5. Section 603 of the act is amended by adding a
12 subsection to read:

13 Section 603. Ordinance Provisions.--* * *

14 (1) Zoning ordinances may provide for the protection,
15 conservation and development of water resources.

16 Section 6. Section 605 of the act is amended by adding a
17 clause to read:

18 Section 605. Classifications.--In any municipality, other
19 than a county, which enacts a zoning ordinance, no part of such
20 municipality shall be left unzoned. The provisions of all zoning
21 ordinances may be classified so that different provisions may be
22 applied to different classes of situations, uses and structures
23 and to such various districts of the municipality as shall be
24 described by a map made part of the zoning ordinance. Where
25 zoning districts are created, all provisions shall be uniform
26 for each class of uses or structures, within each district,
27 except that additional classifications may be made within any
28 district:

29 * * *

30 (5) For the purpose of giving full effect to an

1 integrated water resources plan adopted under Article VIII-B.

2 Section 7. The act is amended by adding an article to read:

3 ARTICLE VIII-B

4 Integrated Water Resources Plan

5 Section 801-B. General Powers.--For the purpose of
6 protecting, conserving and developing water resources within a
7 watershed, the governing bodies of municipalities lying within
8 the watershed may cooperate, in accordance with this article, to
9 enact, amend and repeal an integrated water resources plan.

10 Section 802-B. Preparation of Plan.--(a) An integrated
11 water resources plan shall be prepared by a joint municipal
12 planning commission established under Article XI. In addition to
13 the power to conduct a water study under section 209.1, the
14 joint planning commission shall have the power to do the
15 following:

16 (1) Identify existing water resources, including water
17 resources that originate outside the watershed.

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

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

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

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

28 (6) Consider points of discharge of wastewater to the
29 subsurface and to rivers and streams.

30 (7) Propose programs and procedures, based upon

1 principles of sound hydrologic management of water, effective
2 environmental protection and efficient management to address
3 water resource problems.

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

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

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

18 Section 803-B. Plan Provisions.--(a) An integrated water
19 resources plan may permit, prohibit, regulate, restrict and
20 determine and may contain the same elements authorized for a
21 municipal zoning ordinance by section 603.

22 (b) The provisions of an integrated water resources plan
23 shall be designed to serve the same purposes for the area of its
24 jurisdiction as are required by section 604 for municipal zoning
25 ordinances.

26 (c) Section 605 shall apply to a water resources management
27 plan. All areas of municipalities that are parties to an
28 integrated water resources plan shall be covered by the plan.

29 Section 804-B. Preparation of Plan.--The provisions of
30 section 808-A shall apply to the preparation of an integrated

water resources plan, except that a public hearing on the plan shall be held within each municipality of the proposed plan.

Section 805-B. Review by Department.--(a) Upon completion of an integrated water resources plan, the joint planning commission shall submit a copy to each municipality within the watershed and to the department for its review.

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

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

(2) That the plan is available for public inspection at the locations specified in the notice.

(3) That the department will receive public comment on the plan until the date specified in the notice.

(4) That a public hearing will be held on the plan at a location within the watershed on the date and at a time specified in the notice.

(c) The department shall, upon the date and at the time specified in the public notice or upon any subsequent day or days to which it may adjourn the hearing, receive testimony and hear arguments submitted in support of and in opposition to the integrated water resources plan.

(d) The department shall review the integrated water resources plan to ensure that it complies with this article, does not conflict or interfere with integrated water resources plans, if any, adopted in the region and is consistent with the State comprehensive water plan.

(e) Within 180 days following the conclusion of the public hearing on the integrated water resources plan, the department

1 shall do one of the following:

2 (1) Approve the plan as submitted by the joint planning
3 commission.

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

5 (3) Disapprove the plan.

6 (4) Remit the plan with comments to the joint planning
7 commission for further investigation, study, survey and
8 planning.

9 Section 806-B. Adoption of Plan.--(a) (1) Within 60 days
10 following approval of an integrated water resources plan by the
11 department, each municipality that is a party to the plan may
12 enact the plan as an amendment to its comprehensive plan and
13 zoning ordinance and other land use ordinances, if any.

14 (2) All municipalities lying in whole or in part within the
15 watershed must adopt, by ordinance, the integrated water
16 resources plan for the plan to be effective within the
17 watershed.

18 (b) If the requirements of subsection (a) are not met, the
19 integrated water resources plan shall be void as to all
20 municipalities lying in whole or in part within the watershed.

21 Section 807-B. Power to Regulate Uses.--(a) Except as
22 otherwise provided in subsection (b), following adoption of an
23 integrated water resources plan, all municipalities within the
24 watershed shall have the power to regulate uses to implement the
25 provisions of the plan.

26 (b) A municipality shall not have the power to regulate
27 groundwater or surface-water withdrawals unless the municipality
28 lies within a special management area designated by the
29 department under Chapter 7 of the act of June 28, 1995 (P.L.89,
30 No.18), known as the "Conservation and Natural Resources Act."

1 (c) If a municipality is situated within a special
2 management area as designated by the department, the
3 municipality may adopt an ordinance to regulate groundwater or
4 surface-water withdrawals. Prior to implementation of the
5 ordinance, the department shall review the proposed ordinance
6 and issue a certification that it is consistent with this
7 article, any other integrated water resources plan adopted in
8 the region, the State comprehensive water plan and any
9 management controls imposed by the department under Chapter 7 of
10 the "Conservation and Natural Resources Act."

11 Section 808-B. Action by Department under Water Laws.--(a)
12 The department shall take into account the provisions of an
13 integrated water resources plan when considering an application
14 for a permit under the act of June 24, 1939 (P.L.842, No.365),
15 referred to as the Water Rights Law, and the act of May 1, 1984
16 (P.L.206, No.43), known as the "Pennsylvania Safe Drinking Water
17 Act." If the department issues a permit under the Water Rights
18 Law or the "Pennsylvania Safe Drinking Water Act" that is
19 inconsistent with or contrary to the provisions of an integrated
20 water resources plan, it shall set forth the reason or reasons
21 for its action in the decision to issue the permit.

22 (b) Nothing in this article shall limit or in any way affect
23 the power of the department to issue permits or take other
24 action under the Water Rights Law or the "Pennsylvania Safe
25 Drinking Water Act."

26 Section 809-B. Grants and Assistance.--The department shall
27 provide grants and technical assistance to municipalities to
28 develop and implement integrated water resources plans. The
29 department shall establish, by regulation, eligibility criteria
30 and an application procedure for the grants.

1 Section 810-B. Application of Joint Zoning Provisions.--
2 Except as otherwise provided in this article, the provisions of
3 Article VIII-A shall apply to the development, enactment,
4 amendment and enforcement of an integrated water resources plan.

5 Section 811-B. Construction of Article.--This article shall
6 be construed in pari materia with the following:

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

9 (2) The act of July 7, 1961 (P.L.518, No.268), known as the
10 "Delaware River Basin Compact."

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

13 (4) The act of October 4, 1978 (P.L.851, No.166), known as
14 the "Flood Plain Management Act."

15 (5) The act of October 4, 1978 (P.L.864, No.167), known as
16 the "Storm Water Management Act."

17 (6) Chapter 7 of the act of June 28, 1995 (P.L.89, No.18),
18 known as the "Conservation and Natural Resources Act."

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

21 Section 8. All acts and parts of acts are repealed insofar
22 as they are inconsistent with this act.

23 Section 9. This act shall take effect in 60 days.