

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1449 Session of
2008

INTRODUCED BY MADIGAN, BRUBAKER, WAUGH, VANCE, CORMAN, PUNT,
RAFFERTY, ORIE, FUMO, O'PAKE, BOSCOLA, RHOADES, MUSTO,
GORDNER AND PICCOLA, JUNE 11, 2008

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 11, 2008

AN ACT

1 Establishing the Fair Share Nutrient Reduction Program;
2 providing funding for wastewater treatment plants and farmers
3 to meet nutrient reduction mandates; creating a Nutrient
4 Reduction Trading Board and Program and providing for its
5 power and duties; providing for a resource enhancement and
6 protection tax credit; and providing supplemental funding for
7 the Department of Agriculture and the State Conservation
8 Commission.

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

11 Section 1. Short title.

12 This act shall be known and may be cited as the Fair Share
13 Nutrient Reduction Assistance Program for Farmers Act.

14 Section 2. Legislative findings.

15 The General Assembly finds and declares as follows:

16 (1) Federal law mandates that wastewater treatment
17 facilities and farmers reduce nitrogen and phosphorus
18 discharges going into Commonwealth streams and rivers.

19 (2) In the Chesapeake Bay Watershed alone, 184
20 wastewater treatment facilities will be required to upgrade

1 treatment systems at an estimated cost of more than
2 \$1,000,000,000 and the Department of Environmental Protection
3 has estimated the cost to farmers of complying with reduction
4 mandates to be nearly \$600,000,000.

5 (3) In order to meet the mandates, local wastewater
6 treatment facilities will have to double or triple their cost
7 of service to ratepayers. Farmers, who cannot pass along
8 costs through increased prices for farm commodities, will
9 face crippling increases in operating costs.

10 (4) Technical assistance and help choosing and
11 implementing proper conservation practices on farms from
12 county conservation districts, the State Conservation
13 Commission and the Department of Agriculture is vital to the
14 success of reducing nutrients from agricultural sources.
15 These government entities have seen cuts in funding in the
16 past year, at a time when their services are most needed by
17 farmers.

18 (5) One promising tool to reduce the cost of compliance
19 with these mandates for both wastewater treatment facility
20 operators and farmers is the Nutrient Credit Trading Program
21 established by the Department of Environmental Protection.
22 However, the program currently is not doing all it can to
23 reduce the risk of participation by wastewater treatment
24 facility operators and farmers and is not generating the
25 credits needed to allow for future growth and development.

26 (6) Federal and State Government, local wastewater
27 system ratepayers and farmers must all do their fair share to
28 finance the costs of new nutrient reduction mandates and
29 support their successful implementation, because the
30 environmental and economic benefits of clean water will

1 accrue to all citizens of this Commonwealth.

2 Section 3. Definitions.

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

6 "Agricultural nutrient and sediment reduction project." A
7 project undertaken in conjunction with an agricultural operation
8 to establish, implement or improve a best management practice
9 recognized by the Environmental Protection Agency or the
10 Department of Environmental Protection of the Commonwealth to
11 reduce the levels of nitrogen, phosphorus or sediment entering
12 surface water or groundwater from farms in this Commonwealth.

13 The term includes design, construction, reconstruction,
14 erection, equipping, expansion, improvement, installation,
15 rehabilitation, renovation or repair of infrastructure,
16 buildings, structures, equipment and fixtures to facilitate
17 nutrient or sediment reduction.

18 "Authority." The Pennsylvania Infrastructure Investment
19 Authority.

20 "Best management practice." A practice or combination of
21 practices recognized as effective and practical in the
22 management or reduction of nutrients or sediment to protect
23 surface water or groundwater, considering technological,
24 economic and institutional factors.

25 "Board." The Nutrient Reduction Credit Trading Board.

26 "Commission." The State Conservation Commission.

27 "Conservation district." A public body as defined in and
28 created under the act of May 15, 1945 (P.L.547, No.217), known
29 as the Conservation District Law.

30 "Department." The Department of Environmental Protection of

1 the Commonwealth.

2 "NPDES." The National Pollutant Discharge Elimination System
3 established under the Federal Water Pollution Control Act (62
4 Stat. 1155, 33 U.S.C. § 1251 et seq.)

5 Section 4. Agricultural Nutrient Reduction Program.

6 (a) Establishment.--The Agricultural Nutrient Reduction
7 Program is established to provide financial assistance in the
8 form of single-year or multiyear grants or tax credits for
9 agricultural nutrient and sediment reduction projects and to
10 provide tax credits for legacy sediment remediation projects in
11 this Commonwealth.

12 (b) Dedication to Conservation District Fund.--In addition
13 to any appropriations annually made, a total of \$10,000,000
14 annually shall be deposited in the Conservation District Fund.
15 Money to be deposited under this section shall be distributed by
16 the commission to conservation districts for their use in
17 undertaking activities as defined in the act of May 15, 1945
18 (P.L.547, No.217), known as the Conservation District Law. The
19 commission shall adopt criteria and procedures for allocation of
20 money deposited under this subsection to conservation districts.

21 (c) Financial assistance for agricultural nutrient and
22 sediment reduction projects.--For fiscal years 2008-2009 through
23 and including fiscal year 2012-2013, a nonlapsing appropriation
24 of \$15,000,000 annually shall be made to the commission for the
25 purpose of awarding grants to farmers for agricultural nutrient
26 and sediment reduction projects. Grants to be provided by the
27 commission for any agricultural nutrient and sediment reduction
28 project shall not exceed 50% of the cost of the project, except
29 that no more than \$150,000 in total grants may be awarded to a
30 single agricultural operation.

1 (d) Resource enhancement and protection tax credit.--For
2 fiscal years 2008-2009 through and including fiscal year 2012-
3 2013, a total of \$35,000,000 in tax credits annually shall be
4 made available to eligible applicants in accordance with the
5 provisions of Article XVII-E of the act of March 4, 1971 (P.L.6,
6 No.2), known as the Tax Reform Code of 1971, for agricultural
7 nutrient and sediment reduction projects and for legacy sediment
8 remediation projects. Authorization for tax credits and the
9 extent and limitation of eligibility, receipt and transfer of
10 tax credits shall be as provided in Article XVII-E of the Tax
11 Reform Code of 1971.

12 (e) For fiscal years 2008-2009 through and including fiscal
13 year 2014-2015, a total of \$10,000,000 annually shall be made
14 available to the Department of Agriculture for the Nutrient
15 Management Fund, agricultural research, agricultural extension
16 and other programs to aid farmers in complying with nutrient
17 reduction requirements.

18 (f) Administrative expenses.--The commission may annually
19 dedicate not more than \$350,000 of funds provided under
20 subsection (c) for administrative expenses incurred by the
21 commission in awarding grants and authorizing tax credits under
22 subsections (c) and (d).

23 Section 5. Funding sources.

24 Programs established under this act shall be funded through
25 an interfund transfer from The State Stores Fund. The Secretary
26 of the Budget shall transfer from The State Stores Fund an
27 amount of \$70,000,000 annually for fiscal year 2008-2009 through
28 fiscal year 2012-2013 and \$20,000,000 annually for fiscal year
29 2013-2014 through fiscal year 2014-2015.

30 Section 6. Effective date.

1 This act shall take effect immediately.