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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 235 Session of  
2009

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INTRODUCED BY WOZNIAK, STOUT, FONTANA, KITCHEN, ALLOWAY, LOGAN,  
O'PAKE, GORDNER, BOSCOLA AND PIPPY, FEBRUARY 19, 2009

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 19,  
2009

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AN ACT

1 Amending the act of August 7, 1936 (1st Sp.Sess., P.L.106, No.  
2 46), entitled, as reenacted and amended, "An act relating to  
3 flood control; prescribing the powers and duties of the Water  
4 and Power Resources Board of the Department of Forests and  
5 Waters in relation to the creation of flood control  
6 districts, adoption of plans for flood control works and  
7 improvements, carrying into effect of such plans, assistance,  
8 aid and cooperation with public and private agencies and the  
9 Federal Government in Federal flood control works and  
10 improvements, and entering into compacts and agreements with  
11 other states for flood control works and improvements;  
12 conferring the power of eminent domain; providing for the  
13 setting off of benefits; imposing certain charges upon the  
14 Commonwealth; providing for appeals; and conferring certain  
15 powers on municipalities, counties, and townships, and the  
16 Department of Highways," further providing for purpose of  
17 act; adding definitions; further providing for plans, for  
18 proceedings, for powers and duties of the Department of  
19 Environmental Protection, for eminent domain, for flood  
20 control works and for financing; and making editorial  
21 changes.

22 The General Assembly of the Commonwealth of Pennsylvania  
23 hereby enacts as follows:

24 Section 1. The title of the act of August 7, 1936 (1st  
25 Sp.Sess., P.L.106, No.46), referred to as the Flood Control Law,  
26 reenacted and amended March 10, 1937 (P.L.43, No.18), is amended  
27 to read:

1 AN ACT

2 Relating to flood control; prescribing the powers and duties of  
3 the [Water and Power Resources Board of the Department of  
4 Forests and Waters] Department of Environmental Protection in  
5 relation to the [creation of flood control districts,]  
6 adoption of plans for flood control works and improvements,  
7 carrying into effect of such plans, assistance, aid and  
8 cooperation with public and private agencies and the Federal  
9 Government in Federal flood control works and improvements,  
10 and entering into compacts and agreements with other states  
11 for flood control works and improvements; conferring the  
12 power of eminent domain; providing for the setting off of  
13 benefits; imposing certain charges upon the Commonwealth;  
14 providing for appeals; and conferring certain powers on  
15 municipalities, counties, and townships, and the Department  
16 of [Highways] Transportation.

17 Section 2. Section 1 of the act, amended June 18, 1968 (P.L.  
18 217, No.103), is amended to read:

19 Section 1. Definitions.--[The word "board," as used in this  
20 act, means the Water and Power Resources Board of the Department  
21 of Forests and Waters.] The word "acquisition," as used in this  
22 act, shall mean the purchase, or lease with an option to  
23 purchase, of land, easements or structures for flood damage  
24 reduction.

25 The word "department," as used in this act, shall mean the  
26 Department of Environmental Protection of the Commonwealth.

27 The phrase "flood control works and improvements," as used in  
28 this act, shall include both structural and non-structural flood  
29 protection measures, and stream channel environmental  
30 improvements.

1 The word "person," as used in this act, shall include  
2 individuals, associations, partnerships, and corporations.

3 The word "plans," as used in this act, shall mean plans,  
4 maps, profiles, estimates of costs, descriptions of property to  
5 be taken, damaged or destroyed, and other data and descriptions  
6 prepared by the [Water and Power Resources Board] Department of  
7 Environmental Protection to establish the area and boundaries of  
8 a proposed flood control [district] works and improvements  
9 project, to locate adequate proposed flood control works and  
10 improvements, to determine the cost of the erection [and],  
11 construction, and acquisition of the same, and to determine  
12 property to be taken, damaged or destroyed by the construction  
13 of such works; and shall also be construed to include similar  
14 plans prepared by any agency of the Federal Government which,  
15 before adoption in this Commonwealth, shall have been  
16 [incorporated into and made a part of any State official plan.]  
17 officially accepted by the Department of Environmental  
18 Protection and the municipal project sponsor.

19 The phrase "stream channel environmental improvement," as  
20 used in this act, shall mean and include installation and  
21 maintenance of vegetated stream banks and riparian corridors,  
22 bioengineered projects for bank stability and erosion control,  
23 in-channel structures for habitat and geomorphic stabilization  
24 of profile, pattern and dimensions.

25 The word "municipality," as used in this act, shall include  
26 counties, cities, boroughs, incorporated towns, [and] townships  
27 and municipal authorities created under any act of the General  
28 Assembly.

29 The phrase "non-structural flood protection measures," as  
30 used in this act, shall mean floodplain improvements and include

1 acquisition of land and structures; demolition, removal,  
2 relocation, elevating and floodproofing of structures and other  
3 facilities susceptible to flood damage; and floodplain site  
4 clearance and restoration.

5 Section 3. Section 2 of the act is amended to read:

6 Section 2. Surveys and Plans.--The [Water and Power  
7 Resources Board] department shall have power on its own motion,  
8 or upon the [petition of at least three municipalities, or upon  
9 the petition of at least three hundred persons, who are  
10 freeholders, in any drainage area,] formal request of a  
11 municipality or municipalities to make appropriate surveys and  
12 to prepare suitable plans for any proposed flood control  
13 [district in such drainage area, or any part thereof,] works and  
14 improvements in order to control, store, preserve, and regulate  
15 the flow of rivers and streams and diminish or eliminate floods  
16 [inimical] detrimental to the public health and safety [and],  
17 destructive to public and private property and works, or for  
18 flood damage reduction.

19 Section 4. Section 4 of the act, amended July 1, 1937 (P.L.  
20 2458, No.458), is amended to read:

21 Section 4. Official Plans; Notice.--When the [board]  
22 department has completed suitable plans, it shall adopt them as  
23 official plans and give public notice of such adoption [in at  
24 least two newspapers in each county, wholly or partially within  
25 such flood control district, if so many are published therein,  
26 once a week for two consecutive weeks], which notice shall state  
27 that the official plans are on file in the office of the [board]  
28 department. The [board] department shall also give notice to all  
29 persons, whose property may be taken, damaged or destroyed in  
30 the completion of such plans.[, by registered mail to the last

1 known post office address of the owner or reputed owner of the  
2 property. A certified copy of the completed suitable plans  
3 shall, upon their adoption, be recorded in the office of the  
4 recorder of deeds of each county, wholly or partially within a  
5 flood control district. Such recording shall be constructive  
6 notice to all owners whose property may be taken, damaged or  
7 destroyed in the completion of such plans.]

8 Section 5. Section 5 of the act is repealed:

9 [Section 5. Proceedings Against Board; Hearings; Appeals.--  
10 Any action in equity to restrain the board from proceeding with  
11 the official plans for any flood control district and the  
12 establishment of such district by any party aggrieved thereby,  
13 shall be heard forthwith by the court in which such proceedings  
14 may be instituted, and any appeal or appeals shall be heard by  
15 the Supreme Court in any district in which it may be in session,  
16 as is provided in cases of appeals from special or preliminary  
17 injunctions.]

18 Section 6. Section 6 of the act, amended June 18, 1968 (P.L.  
19 217, No.103), is amended to read:

20 Section 6. When Official Plans Effective.--Official plans  
21 shall become effective for a flood control [district, and the  
22 district shall be deemed established] works and improvements  
23 project when the [board] department shall have completed  
24 suitable plans, presented those plans to a municipal sponsor and  
25 [adopted them as official plans and given the notice of such  
26 adoption provided for in section four of this act] those plans  
27 are adopted by formal resolution of the municipal sponsor.

28 The [board] department may proceed with the exercise of the  
29 powers granted by this act whenever an official plan has become  
30 effective, but no contract shall be let, agreement executed, or

1 condemnation proceeding be begun requiring expenditures  
2 exceeding the amount of moneys appropriated for flood control  
3 works and improvements projects and not already encumbered.

4 Section 7. Section 7 of the act, amended June 5, 1947 (P.L.  
5 420, No.194), is amended to read:

6 Section 7. General Powers of [Board] Department; Payment of  
7 Taxes by Commonwealth.--(a) In order to carry into effect the  
8 official plans for any flood control [district] works and  
9 improvements, the [board] department shall have power to clean  
10 out, widen, alter, deepen or change the course, current or  
11 channel of any river or stream; to install a flood forecasting  
12 and warning system; to fill up any abandoned canal or [water  
13 course] watercourse; to construct and maintain levees, dikes,  
14 walls, revetments, dams, lakes, reservoirs, and other flood  
15 control works and improvements deemed necessary to prevent  
16 floods [and to], reduce flood damages, control, preserve, and  
17 regulate the flow of rivers and streams, and to enhance water  
18 quality and stream corridor ecological functions; to construct  
19 or enlarge bridges and viaducts; to construct, relocate, and  
20 elevate public highways; to construct any of said flood control  
21 works and improvements across, through or over any public  
22 highway, canal, railroad, [right of way] right-of-way, or track;  
23 to remove or change the location of any fence, building,  
24 railroad, canal, or other improvement; to acquire by donation,  
25 lease, purchase or condemnation, and own or hold, in the name of  
26 the Commonwealth, real and personal property and easements and  
27 the [public] flood control works and improvements erected and  
28 constructed under the authority of this act.

29 (b) Whenever in the exercise of its general powers the  
30 [board] department shall construct dams, lakes and reservoirs,

1 which can be otherwise utilized, the [board] department may, on  
2 approval by the Governor, permit the Department of [Forests and  
3 Waters] Conservation and Natural Resources to occupy and use  
4 said dams, lakes and reservoirs and any adjoining land acquired  
5 for flood control purposes as recreational areas. Any such use  
6 shall be subordinate to the primary purpose of flood control for  
7 which said lands were acquired and the waters impounded thereon.

8 (c) Whenever any lands or other property is acquired by the  
9 [board] department to be used for reservoir purposes, [the board  
10 for the assessment and revision of taxes or] the county  
11 commissioners of the county wherein the same is located, shall,  
12 immediately after such acquisition, certify to the Auditor  
13 General the assessed valuation of such lands and other property  
14 at the time of such acquisition. After such acquisition, the  
15 taxing authority of each political subdivision within which such  
16 lands or other property is located, shall, from year to year, at  
17 the time of their annual levy of taxes, certify to the Auditor  
18 General the rate of their respective levies for the next year.  
19 Thereupon the Auditor General shall ascertain the amount of  
20 taxes which would have been collected upon the assessed  
21 valuation certified as hereinbefore provided, at the respective  
22 rates of the levies so certified. Upon the ascertainment of such  
23 amounts, the same shall be paid by the Commonwealth to the  
24 several political subdivisions, from time to time, from the  
25 General Fund.

26 Section 8. Section 8 of the act, amended June 18, 1968 (P.L.  
27 217, No.103), is amended to read:

28 Section 8. [Board] Department Designated as Agency to  
29 Receive Federal Moneys.--The [board] department is authorized to  
30 receive on behalf of the Commonwealth of Pennsylvania any and

1 all Federal moneys, grants, contributions, gratuities, and loans  
2 available or hereafter made available by the [government]  
3 Government of the United States, or any of its agencies or  
4 instrumentalities, for State flood control works and  
5 improvements under such rules and regulations, not inconsistent  
6 with the provisions of this act, as may be prescribed by law of  
7 the Congress of the United States, or any Federal agency or  
8 instrumentality; and to pay the same over to the State  
9 Treasurer, through the Department of Revenue as custodian. All  
10 such moneys shall be paid into the General Fund as an  
11 augmentation to the Appropriations for Flood Control Projects.

12 Section 9. Section 9 of the act is amended to read:

13 Section 9. Powers and Duties in Connection with Federal  
14 Flood Control Works and Improvements.--In addition to the powers  
15 hereinbefore granted, the [board] department is hereby empowered  
16 and directed, for and in behalf of the Commonwealth and its  
17 subdivisions, to aid, assist, and cooperate in the carrying out  
18 of any Federal flood control [program or plans] works and  
19 improvements, and for such purposes shall have all of the powers  
20 conferred and shall be subject to all the limitations imposed by  
21 this act, including the approval of plans as provided in this  
22 act, [with respect to the State-created flood control districts  
23 and the execution of the official plans for such districts,] and  
24 all other powers consistent therewith, necessary or required, in  
25 order to enable the Commonwealth to participate in and receive  
26 the benefits of any Federal flood control [program or plans]  
27 works and improvements in this Commonwealth, subject to all the  
28 limitations imposed by this act. It shall have power among  
29 others, to enter into and execute any and all contracts and  
30 agreements with agencies of the Federal Government, and to do

1 and perform all acts necessary in connection therewith, and to  
2 assist and cooperate in constructing, erecting, financing,  
3 maintaining, using, and operating any Federal [public] flood  
4 control works and improvements, and to enter into and execute  
5 such contracts as may be deemed necessary and convenient to the  
6 exercise of the powers, rights, privileges, and functions  
7 conferred by this act. It shall have power to obligate the  
8 Commonwealth to pay a portion of the cost of such Federal flood  
9 control works and improvements, not, however, exceeding amounts  
10 of money available for such purposes.

11 The [board] department is authorized and directed to conform  
12 and comply with all rules, regulations, and requirements of the  
13 Federal Government and its agencies and instrumentalities,  
14 subject to the limitations imposed by this act.

15 Section 10. Section 10 of the act, amended December 22, 1981  
16 (P.L.551, No.162), is amended to read:

17 Section 10. Contracts and Acquisition of Property.--All work  
18 of any character whatever performed by the [board] department  
19 under the authority of this act, except as hereinafter provided,  
20 in connection with any State [public] flood control works and  
21 improvements, involving an expenditure of more than [four]  
22 twenty-five thousand dollars, shall be performed under written  
23 contract let by the [board] department to the lowest responsible  
24 bidder after due advertisement as prescribed by the [board]  
25 department; except, however, that the [board] department may,  
26 with the approval of the Governor, enter into contracts or  
27 agreements, without advertisement, with any person, corporation  
28 or municipality, covering the removal or relocation of gas,  
29 water, [and] telephone, [telegraph] cable, electric light, and  
30 electric power lines, highways, railroads, or other facilities,

1 and providing therein for said removal or relocation by the  
2 person, corporation or municipality owning such facility. The  
3 [board] department may, with the approval of the Governor,  
4 acquire any necessary easements and rights-of-way and may pay  
5 all costs and damages necessary, arising from and incidental to  
6 said removal or relocation. Payment shall be made from the  
7 current revenues of the General Fund [Appropriations] or bond  
8 proceeds for Flood Control Projects.

9 The [board] department may sell, lease, or otherwise dispose  
10 of all property, real, personal or mixed, acquired under the  
11 provisions of this act, not needed by the Commonwealth for  
12 reservoir or flood control purposes, subject to the approval of  
13 the Governor. The moneys received through such sale, lease or  
14 other disposition shall accrue to the General Fund.

15 Every contract for the construction, reconstruction,  
16 alteration, repair, improvement or maintenance of [public] flood  
17 control works and improvements shall comply with the provisions  
18 of the act of March 3, 1978 (P.L.6, No.3), known as the "Steel  
19 Products Procurement Act."

20 Section 11. Section 11 of the act, amended June 18, 1968  
21 (P.L.217, No.103), is amended to read:

22 Section 11. Power of Eminent Domain.--The [board] department  
23 shall have power to acquire any property, easements, [rights of  
24 way, and water course] rights-of-way, and watercourses deemed  
25 necessary for the construction of any of its [public works or  
26 improvements] structural flood protection measures provided for  
27 in this act by the right of eminent domain, and shall have power  
28 to enter upon, injure or destroy any such property deemed  
29 necessary for such purposes. The proceedings for the  
30 condemnation of property and for the assessment of damages for

1 property taken, injured or destroyed shall be in accordance with  
2 [the act, approved the fifteenth day of July, one thousand nine  
3 hundred and nineteen (Pamphlet Laws, nine hundred seventy-six),  
4 entitled "An act to authorize the Board of Commissioners of  
5 Public Grounds and Buildings to acquire property for the  
6 Commonwealth by proceedings in eminent domain, where the  
7 purchase of such property has either been authorized by law or  
8 determined by the Board of Commissioners of Public Grounds and  
9 Buildings under existing laws, and an appropriation made  
10 therefor," and its amendments and supplements,] section 2401.1  
11 of the act of April 9, 1929 (P.L.177, No.175), known as "The  
12 Administrative Code of 1929," except that the [board] department  
13 may take possession of the property upon tendering the value of  
14 the property taken as determined by the [board's] department's  
15 appraisers: Provided, That any property owner, who believes the  
16 amount tendered insufficient to fully compensate him, may accept  
17 the same under protest and without prejudice to his right to  
18 apply for the appointment of a Board of View to assess the  
19 damages claimed: And provided further, That if the award of the  
20 Board of View is not greater than the amount previously tendered  
21 and accepted, then all costs of the proceeding shall be imposed  
22 on such claimant. If the award is greater than the amount  
23 tendered and paid by the [board] department, the claimant shall  
24 be entitled to costs, and the [board] department shall pay, in  
25 addition thereto, the difference between the amount awarded and  
26 tendered. Nothing herein contained, however, shall deprive  
27 either the [board] department or the claimant from appealing  
28 from or filing exceptions to the report of the Board of View,  
29 but upon trial of any appeal, if the party appealing does not  
30 obtain a verdict more favorable than was the report of the Board

1 of View, he shall not recover costs.

2 The [board] department shall have like powers of eminent  
3 domain as hereinbefore granted in this section and in accordance  
4 with the same procedure provided by this section, to acquire  
5 property, easements, [rights of way, and water courses] rights-  
6 of-way, and watercourses deemed necessary by the [board]  
7 department to enable the Federal Government, or any of its  
8 agencies or instrumentalities, to erect and construct suitable  
9 [public] flood control works and improvements in this  
10 Commonwealth, in the construction [and], erection, and  
11 acquisition of which the [board] department has been authorized  
12 by this act to aid, assist, and cooperate.

13 The [board] department shall have the power to authorize the  
14 Federal Government, or any of its instrumentalities or agencies,  
15 to acquire outside the Commonwealth such property, easements,  
16 [rights of way, and water courses] rights-of-way, and  
17 watercourses as are deemed necessary for the construction of any  
18 [public works or] flood control works and improvements provided  
19 for in this act, and to order the payment therefor out of the  
20 current revenues of the General Fund [Appropriations] or bond  
21 proceeds for Flood Control Projects to the Federal Government,  
22 or its instrumentality or agency, not, however, exceeding the  
23 unencumbered amounts of money available in the appropriations.

24 The [board] department shall not agree to pay any tax on or  
25 rental for any such property, easements, [rights of way or water  
26 courses] rights-of-way or watercourses, nor shall the  
27 Commonwealth be liable therefor without the consent of the  
28 General Assembly.

29 In any case, where property necessary to be taken by eminent  
30 domain is owned by any person or municipality owning other

1 property which will be benefited by the flood control  
2 [improvement] works and improvements, the [board] department  
3 shall have power to require the Board of View, appointed to  
4 assess damages against the property taken, to also assess  
5 benefits against the parts of the same property not taken, and  
6 such other property owned by the claimant benefited, to an  
7 amount not exceeding the damages claimed by the owner, and to  
8 set off the same against any damages which may be awarded for  
9 the property, or part thereof, taken.

10 In such case, the fact that the property claimed to be  
11 benefited was at any time previously damaged by a flood shall be  
12 conclusive evidence of the fact that benefits have accrued.

13 Section 12. Section 12 of the act is amended to read:

14 Section 12. United States Not to Be Liable; Federal Rules  
15 and Regulations.--All lands, rights in lands, [rights of way,  
16 and water courses] rights-of-way, and watercourses acquired  
17 under the authority of this act for State or Federal flood  
18 control works and improvements, shall be acquired without cost  
19 to the United States, and no moneys made available for flood  
20 control works and improvements in this Commonwealth, by the  
21 United States, shall be used for such purposes unless in either  
22 event the Government of the United States, or any of its  
23 agencies or instrumentalities, shall first consent thereto, nor  
24 shall the Government of the United States be deemed liable for  
25 any damages, by reason of its contribution, arising in  
26 connection with the construction of any State or Federal [public  
27 works or] flood control works and improvements. The Commonwealth  
28 hereby agrees that after such State [public] flood control works  
29 and improvements are constructed where the Federal Government  
30 has contributed, the same will be operated and maintained in

1 accordance with all rules and regulations prescribed by the  
2 [Secretary of War] Government of the United States, or its  
3 agencies or instrumentalities, subject to all the limitations  
4 imposed by this act. Agencies of the Commonwealth of  
5 Pennsylvania, acting for and in the name of the Commonwealth,  
6 are authorized to agree to hold and save the Government of the  
7 United States or its agencies free from all damages arising from  
8 implementation, operation, maintenance, repair, replacement, and  
9 rehabilitation of flood control works and improvements projects,  
10 and any project-related betterments, involving cooperative  
11 agreements between the Commonwealth and the Government of the  
12 United States or its agencies, except for damages due to the  
13 fault or negligence of the Government of the United States or  
14 its agencies or its contractors. The Commonwealth hereby  
15 specifically waives sovereign immunity with respect to the  
16 foregoing.

17 Section 13. Section 13 of the act, amended April 20, 1956  
18 (1955 P.L.1490, No.494), is amended to read:

19 Section 13. Contracts and Agreements With Municipalities and  
20 Persons.--The [board] department shall have power to enter into  
21 contracts and other agreements with municipalities, persons and  
22 authorities created under any act of Assembly for cooperation  
23 and assistance in constructing, financing, maintaining, using,  
24 and operating any State or Federal [public] flood control works  
25 [or] and improvements, and to enter into and execute such  
26 contracts and agreements as may be necessary and convenient to  
27 the exercise of the powers, rights, privileges, and functions  
28 conferred by this act.

29 Section 14. Section 14 of the act, amended June 18, 1968  
30 (P.L.217, No.103), is amended to read:

1 Section 14. Relocation, Abandonment and Vacation of Roads,  
2 Streets, and Bridges.--The Department of [Highways]  
3 Transportation and municipalities may enter into agreements with  
4 the [board] department, or Federal agencies with the approval of  
5 the [board] department, to relocate roads, streets, bridges, and  
6 viaducts necessitated by the construction of any State or  
7 Federal flood control works and improvements; and may agree  
8 therein to construct new roads, streets, bridges, and viaducts,  
9 and pay the cost of the same, or any part thereof, from the  
10 Motor License Fund or municipal moneys without any charge or  
11 only part of the cost charged against the moneys in the [General  
12 Fund Appropriations] current revenues of the General Fund or  
13 bond proceeds for Flood Control Projects. The [board] department  
14 may consent in any such agreement to pay the whole or any part  
15 of the cost of constructing such relocated roads, streets,  
16 bridges, and viaducts from the moneys in the [General  
17 Appropriations] current revenues of the General Fund or bond  
18 proceeds for Flood Control Projects. Such relocated roads,  
19 streets, bridges, and viaducts may be constructed by the  
20 Department of [Highways] Transportation or by contract let by  
21 [said department] the Department of Transportation, or the  
22 municipality or by the [board] department or by a Federal agency  
23 as may be agreed upon. Relocation of State highways shall be  
24 made by plans properly approved as is required by law for the  
25 relocation of State highway routes, and may be made without  
26 regard to terminal or intermediate points mentioned in the law  
27 establishing such routes. The portions of State highway routes  
28 supplied by such relocations may be abandoned by the Secretary  
29 of [Highways] Transportation in the manner provided by law,  
30 whereupon said abandoned portions of State highway routes shall

1 revert to the authorities responsible for the maintenance of the  
2 public road or highway prior to its having been established as a  
3 State highway. Where any State highway route, or part thereof,  
4 shall become inundated by the waters of any flood control  
5 reservoir, or shall become unnecessary for public use and  
6 travel, or burdensome or dangerous due to the construction of  
7 any flood control reservoir, the Secretary of [Highways]  
8 Transportation, with the approval of the Governor, may abandon  
9 as a State highway such State highway route, or part thereof.  
10 The Secretary of [Highways] Transportation may also at any time,  
11 by and with the consent of the local authorities, by written  
12 order declare the portion or portions of road or roads so  
13 abandoned to be vacated and closed to public use and travel and  
14 no longer a public road, without limitation because of the  
15 length of the road to be vacated.

16 Section 15. Sections 15 and 16 of the act are amended to  
17 read:

18 Section 15. Acceptance of Completed Federal Flood Control  
19 Works and Improvements.--The [board] department shall have power  
20 to accept on behalf of the Commonwealth all Federal flood  
21 control works and improvements after the same have been  
22 completed, and to agree with the Federal Government to maintain  
23 and operate such flood control works and improvements for the  
24 primary purpose of flood control.

25 Section 16. Water Power and Supply.--The rights of  
26 landowners, municipalities, and persons to the waters [in a  
27 flood control district, or in waters] affected by any State or  
28 Federal flood control works [or] and improvements for domestic  
29 use, water supply, industrial purposes, water power or for any  
30 other lawful purposes shall extend only to such rights as are

1 owned or possessed by them prior to the adoption of the official  
2 plans of such flood control works and improvements, and to such  
3 use as could be made of such waters if the [public improvements  
4 and works] flood control works and improvements herein  
5 authorized had not been made. Whenever such [public improvements  
6 and works] flood control works and improvements make possible a  
7 greater, better or more convenient use of, or benefit from the  
8 waters in a flood control [district] works and improvements  
9 project, the right of such greater, better or more convenient  
10 use of or benefit from such waters shall be the property of the  
11 Commonwealth, saving the rights of the Federal Government as to  
12 navigation. Such rights may be leased, sold or assigned only as  
13 the Legislature may hereafter provide, but at all times the  
14 primary purpose of flood control shall be preserved. All lands  
15 or property, or both, through or over which or bounding which  
16 are streams, the beds of which streams are the property of the  
17 owners of said lands, shall not be deprived of such reasonable  
18 flow of water, as shall be determined and fixed by the [board]  
19 department as necessary for the maintenance of fish and aquatic  
20 life, and for domestic and industrial use and consumption.

21 Section 16. Section 17 of the act, amended June 18, 1968  
22 (P.L.217, No.103), is amended to read:

23 Section 17. Source of Finances.--The cost and expenses of  
24 making the surveys hereinbefore provided, the preparation of  
25 official plans, all advertising, and all other necessary and  
26 incidental costs and expenses, [including the expenses of the  
27 members of the board,] salaries, and expenses of engineers,  
28 experts, clerks, assistants, and other employes, all court and  
29 viewers' costs assessed against the Commonwealth, and all other  
30 proper and necessary operating expenses deemed necessary by the

1 [board] department to carry into effect the provisions of this  
2 act, shall be paid from General Fund General Government  
3 Operations Appropriations of the [Department of Forests and  
4 Waters] department or Capital Budget authorizations for specific  
5 flood control works and improvements projects made by the  
6 General Assembly as augmented by reimbursements received for the  
7 cost of making surveys and preparing plans for the [General  
8 State Authority] Department of General Services or other State  
9 instrumentalities or agencies of the Commonwealth. The erection  
10 and construction of [public] flood control works and  
11 improvements and of all other work of any kind and character  
12 authorized by this act and the acquisition of any and all  
13 property in connection therewith shall be paid from the [General  
14 Fund Appropriations] current revenues of the General Fund or  
15 bond proceeds for Flood Control Projects as augmented by Federal  
16 moneys available or made available to this Commonwealth as  
17 grants, contributions, gratuities, and loans for flood control  
18 works and improvements, gifts and donations received from  
19 persons, appropriations and contributions made to the [board]  
20 department by municipalities, and contributions by other states  
21 and their political subdivisions. All moneys so made available  
22 shall likewise be available for expenditure by the [board]  
23 department to aid and assist in the erection and construction of  
24 Federal [public] flood control works and improvements beneficial  
25 to the people of this Commonwealth of the type which may be  
26 constructed under the provisions of this act, after such Federal  
27 flood control works and improvements have been incorporated into  
28 and made a part of an [official State plan] officially accepted  
29 plan by the department and the municipal project sponsor as  
30 provided in this act.

1 Section 17. Section 18 of the act is amended to read:

2 Section 18. Increase of Municipal Debt; Appropriations.--Any  
3 municipality may incur or increase its indebtedness, in the  
4 manner provided by law, for the purpose of appropriating moneys  
5 to the [board] department, to assist in carrying out the purpose  
6 of this act, and may make appropriations from current funds for  
7 such purpose.

8 Section 18. Sections 19 and 20 of the act, amended June 18,  
9 1968 (P.L.217, No.103), are amended to read:

10 Section 19. Separate Accounts for [Flood Control  
11 Districts.--Where more than one flood control district is  
12 created, separate] Individual Flood Control Works and  
13 Improvements Projects.--Separate accounts shall be kept for each  
14 [district] flood control works and improvements project, and  
15 payments from the [General Fund Appropriations] current revenues  
16 of the General Fund or bond proceeds for Flood Control Projects  
17 for or on account of any one [district] flood control works and  
18 improvements project shall not exceed the amount credited to  
19 such [district] flood control works and improvements project in  
20 said appropriations.

21 Section 20. Cooperation with Other States.--The [Water and  
22 Power Resources Board] department is hereby designated as the  
23 agency of the Commonwealth with power to enter into reciprocal  
24 compacts and agreements with other states in developing flood  
25 control [projects and] works and improvements, and shall have  
26 authority to expend moneys made available and appropriated by  
27 the General Assembly for interstate flood control works and  
28 improvements, located within or without this Commonwealth, on  
29 rivers and streams entering into or flowing out of or along the  
30 borders of this Commonwealth, and to receive, as augmentations

1 to the [General Fund Appropriations] current revenues of the  
2 General Fund or bond proceeds for Flood Control Projects from  
3 other states and their political subdivisions, any moneys to aid  
4 and assist in the construction of flood control works and  
5 improvements located in this State which are deemed beneficial  
6 to the inhabitants of other states. Payments on account of such  
7 interstate flood control works and improvements may be made by  
8 the [board] department direct to the contractor or to the agency  
9 of such other state which let the contract or is performing the  
10 work of constructing such [works or] flood control works and  
11 improvements, or to the Federal Government, or any of its  
12 instrumentalities or agencies supervising the construction of  
13 such [works or] flood control works and improvements.

14 The [board] department is further authorized to empower the  
15 Federal Government, or any of its instrumentalities or agencies,  
16 to supervise the construction of such interstate flood control  
17 works and improvements.

18 Section 19. This act shall take effect immediately.