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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2153 Session of  
2021

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INTRODUCED BY BOBACK, RYAN, T. DAVIS, RIGBY, LONGIETTI, MILLARD,  
C. WILLIAMS, QUINN AND MIZGORSKI, DECEMBER 10, 2021

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
DECEMBER 10, 2021

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AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania  
2 Consolidated Statutes, providing for municipal storm water  
3 assistance; establishing the Municipal Storm Water Assistance  
4 Fund and the Municipal Storm Water Assistance Program; and  
5 making an appropriation.

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

8 Section 1. Title 27 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 33

11 MUNICIPAL STORM WATER ASSISTANCE

12 Sec.

13 3301. Scope of chapter.

14 3302. Findings and declarations.

15 3303. Definitions.

16 3304. Municipal Storm Water Assistance Fund.

17 3305. Municipal Storm Water Assistance Program.

18 § 3301. Scope of chapter.

19 This chapter relates to municipal storm water assistance.

1 § 3302. Findings and declarations.

2 The General Assembly finds and declares as follows:

3 (1) The rivers and streams in this Commonwealth provide  
4 an abundance of fresh water that support the settlement,  
5 growth and industrialization of this Commonwealth.

6 (2) Almost one-third of the waters in this Commonwealth  
7 do not meet safety standards for humans or fish.

8 (3) Poor water quality in this Commonwealth adversely  
9 impacts this Commonwealth's environment, human health,  
10 drinking water supplies, recreational enjoyment and  
11 opportunities and economic and commercial businesses and jobs  
12 that depend on good water quality.

13 (4) Poor water quality in this Commonwealth also  
14 adversely impacts downstream waters in neighboring states,  
15 prompting Federal scrutiny, oversight and litigation.

16 (5) Best management practices are available to cost-  
17 effectively mitigate the impacts of nonpoint source  
18 pollution, but the cost to meaningfully implement the best  
19 management practices far exceeds currently available public  
20 and private funds.

21 (6) Improving water quality will improve drinking water  
22 supplies and recreational and related commercial  
23 opportunities as well as create jobs and promote economic  
24 growth in this Commonwealth.

25 (7) Local governments throughout this Commonwealth have  
26 struggled to fund the projects and efforts required under the  
27 Federal mandate for Municipal Separate Storm Sewer Systems  
28 (MS4s).

29 § 3303. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Best management practice" or "BMP." A practice or  
4 combination of practices determined by the commission or by the  
5 Natural Resources Conservation Service of the United States  
6 Department of Agriculture to be effective and practical,  
7 considering technological, economic and institutional factors,  
8 to manage nutrient and sediment to protect surface water and  
9 groundwater.

10 "Commission." The State Conservation Commission established  
11 under the act of May 15, 1945 (P.L.547, No.217), known as the  
12 Conservation District Law.

13 "Conservation district." A county conservation district  
14 established under the Conservation District Law.

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

17 "Erosion." The natural process by which the surface of the  
18 land is worn away by water, wind or chemical action.

19 "Fund." The Municipal Storm Water Assistance Fund  
20 established under section 3304(a) (relating to Municipal Storm  
21 Water Assistance Fund).

22 "Groundwater." Water that is located within the saturated  
23 zone below the water table and is available to supply wells and  
24 springs.

25 "Nutrient." Nitrogen or phosphorous.

26 "Nutrient or sediment pollution reduction." A reduction in a  
27 nitrogen, phosphorus or sediment pollution load discharged to  
28 surface water or groundwater that can be directly quantified or  
29 modeled using any model approved or accepted by the department  
30 or the United States Environmental Protection Agency for the

1 purpose of determining the amount of nutrient or sediment  
2 pollution reduction, in pounds per year, achieved by  
3 implementing a best management practice.

4 "Program." The Municipal Storm Water Assistance Program  
5 established under section 3305(a) (relating to Municipal Storm  
6 Water Assistance Program).

7 "Sediment." Soil or another erodible material transported by  
8 water, wind or other means as a product of erosion.

9 "Storm water." Drainage runoff from the surface of the land  
10 resulting from precipitation or snow or ice melt.

11 "Surface water." Perennial and intermittent streams, rivers,  
12 lakes, reservoirs, ponds, wetlands, springs, natural seeps and  
13 estuaries. The term does not include water at facilities  
14 approved for wastewater treatment such as wastewater treatment  
15 impoundments, cooling water ponds and constructed wetlands used  
16 as part of a wastewater treatment process.

17 § 3304. Municipal Storm Water Assistance Fund.

18 (a) Establishment.--The Municipal Storm Water Assistance  
19 Fund is established in the State Treasury.

20 (b) Deposits.--The following shall be deposited into the  
21 fund under subsection (a):

22 (1) Money appropriated for purposes of the fund.

23 (2) Federal money appropriated or authorized for  
24 purposes of the fund.

25 (3) Money received from another governmental agency  
26 through an interagency agreement or memorandum of  
27 understanding.

28 (4) A gift or other contribution from a public or  
29 private source to the fund.

30 (5) Return on money dedicated for the fund, including,

1 but not limited to, interest on loans, investment interest or  
2 refunds.

3 (c) Nonreversion.--Any money remaining in the fund,  
4 including interest at the end of each fiscal year, shall not  
5 revert to the General Fund but shall remain in the fund.

6 (d) Status of fund.--The fund shall not be subject to 42  
7 Pa.C.S. Ch. 37 Subch. C (relating to judicial computer system).

8 (e) Appropriation.--For fiscal year 2021-2022, the sum of  
9 \$300,000,000 is hereby appropriated from Federal money available  
10 to the Commonwealth under the American Rescue Plan Act of 2021  
11 (Public Law 117-2, 135 Stat. 4) to the fund.

12 § 3305. Municipal Storm Water Assistance Program.

13 (a) Establishment.--The Municipal Storm Water Assistance  
14 Program is established in the department.

15 (b) Sources of funding.--Funding for the program may be  
16 provided through any of the following:

17 (1) Money appropriated to the fund.

18 (2) Money appropriated for the program.

19 (3) Federal money appropriated or authorized for  
20 purposes of the program.

21 (4) Money received from another governmental agency  
22 through an interagency agreement or memorandum of  
23 understanding and directed to the program.

24 (5) A gift or other contribution from a public or  
25 private source and directed to the program.

26 (6) Return on money dedicated for the program, including  
27 interest on loans, investment interest or refunds.

28 (c) Powers and duties of department.--The department shall:

29 (1) Provide a system of financial assistance to  
30 counties, municipalities or municipal authorities for the

1 following:

2 (i) Planning for storm water management under the  
3 act of October 4, 1978 (P.L.864, No.167), known as the  
4 Storm Water Management Act.

5 (ii) Implementation of projects pursuant to a  
6 Pollution Reduction Plan as part of a National Pollutant  
7 Discharge Elimination System (NPDES) Permit for  
8 Stormwater Discharges from Municipal Separate Storm Sewer  
9 Systems (MS4s).

10 (2) Adopt performance standards for administration and  
11 oversight of the program and procedures for public  
12 participation in the development and revision of the project  
13 ranking criteria established under paragraph (4).

14 (3) Establish a system of program evaluation and quality  
15 control.

16 (4) Adopt written and publicly available criteria for  
17 ranking of applications for financial assistance and  
18 determination of proposed projects to be given priority,  
19 including any of the following:

20 (i) Projects that are part of a multimunicipal  
21 regional storm water plan or integrated water resources  
22 plan.

23 (ii) Projects with a perpetual easement protecting  
24 the implemented practice, where applicable.

25 (iii) Projects with a contract for long-term  
26 maintenance of the implemented project.

27 (iv) Projects that utilize geographic information  
28 systems or other targeting techniques to identify cost-  
29 effective practice choices and siting.

30 (v) Projects that leverage a greater ratio of

1 matching funds based on fiscal need of the applicant.

2 (vi) Projects located in an environmental justice  
3 area as designated by the department.

4 (vii) Projects that will provide multiple benefits,  
5 such as filtering toxic pollutants or mitigating  
6 flooding.

7 (5) Annually assess the program and produce a report  
8 that describes the numbers and types of projects funded, the  
9 names and locations of projects and description of each  
10 project and the amount of funding provided, the number of  
11 applications received, the benefits that have resulted and  
12 are expected to result, other measures taken by the  
13 department to implement the program, a financial accounting  
14 of funds received and expended and any other information that  
15 the department determines would be appropriate. Copies of the  
16 report shall be provided to the following:

17 (i) The chairperson and minority chairperson of the  
18 Environmental Resources and Energy Committee of the  
19 Senate.

20 (ii) The chairperson and minority chairperson of the  
21 Environmental Resources and Energy Committee of the House  
22 of Representatives.

23 (iii) The chairperson and minority chairperson of  
24 the Urban Affairs and Housing Committee of the Senate.

25 (iv) The chairperson and minority chairperson of the  
26 Urban Affairs Committee of the House of Representatives.

27 (v) The chairperson and minority chairperson of the  
28 Local Government Committee of the Senate.

29 (vi) The chairperson and minority chairperson of the  
30 Local Government Committee of the House of

1           Representatives.

2           (6) Create a system for collecting and reporting of  
3           collected data on funded practices to governmental agencies,  
4           in a manner consistent with criteria established under  
5           Federal and State law.

6           (d) Administration expenses.--The department may dedicate no  
7           more than 5% of available program funds for expenses incurred in  
8           administration of the program by the department.

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