

Testimony of
Kelly Heffner, Deputy Secretary for Water Management
Department of Environmental Protection (DEP)
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Thank you for the opportunity to share DEP's perspective on Senate Bill (SB) 1261. I will take just a few minutes to share DEP's position of support for this bill and what benefits this may provide to our local governments.

Successful municipal stormwater management requires stable and reliable funding. There are examples within Pennsylvania, as well as in other states, of effective municipal stormwater programs that rely on funding through fees assessed and administered by a stormwater authority. The City of Philadelphia is one such example, and through a line item included in a user's monthly water bill, this municipality has supported a comprehensive water management program that addresses complex stormwater and sewage infrastructure related needs. Smaller municipalities, such as York and Lancaster are currently exploring approaches to stormwater management that would similarly address the spectrum of water management issues.

Pennsylvania DEP supports SB 1261, because it would clarify that the development of an authority for municipalities like York and Lancaster would be a viable way to develop additional funding sources for the needed upgrades to their infrastructure to adequately address stormwater in a manner that protects public health and safety and meets federal and state regulatory obligations.

DEP further supports SB 1261 because it is our observation that the use of an authority as a funding mechanism remains an issue for many municipalities due to the real or perceived ambiguity under existing law as to whether municipalities are authorized to assess fees for storm water management. DEP is supportive of legislation that would clarify this ambiguity and that expressly establishes the legal authority of municipalities to form stormwater authorities.

SB 1261 does just that and expressly authorizes the creation of municipal authorities with the power to oversee storm water management and assess fees for such stormwater planning and implementation services. This legislation would provide additional tools to municipalities who face significant challenges associated with funding local stormwater programs.

Since the late 1970s, all municipalities in Pennsylvania have had stormwater management obligations under Act 167, the Pennsylvania Stormwater Management Act, as well as under the federal Clean Water Act. These federal and state statutory obligations address the recognized need to manage uncontrolled stormwater runoff in order to protect developed land, public health and safety and the environment.

Since 2003 Pennsylvania has had approximately 1000 municipalities that are regulated under the federal Clean Water Act Municipal Separate Storm Sewer System, (MS4) National Pollutant Discharge Elimination System, (NPDES) permitting program.

DEP administers the federal Clean Water Act regulatory requirements in Pennsylvania through a delegation agreement with the U.S. Environmental Protection Agency (EPA). DEP has structured the implementation of the federal and state municipal stormwater obligations in a manner that allows municipalities to meet most of their state and federal obligations with one consolidated program.

Under this consolidated program, municipalities must address both stormwater planning and management requirements, and must adopt and implement a stormwater management ordinance that regulates land uses and the associated stormwater runoff.

Those municipalities who have obligations under the federal NPDES MS4 permit program, may also have to address the requirements for discharges to waterbodies that have been determined to be impaired or have had a Total Maximum Daily Load (TMDL) completed for them. A TMDL is required for any waterbody that is not meeting water quality standards. These additional requirements can be specific pollution reduction targets for a watershed that are called for in a local TMDL, or a more general Pollution Reduction Plan (PRP), such as that specified for MS4 permittees in the Chesapeake Bay Watershed.

To help our MS4 permittees DEP negotiated an approach to MS4 permitting with EPA that included our existing stormwater management requirements. This insured that our permittees were not undertaking duplicative efforts in order to comply with these permitting obligations. In addition DEP held 15 separate workshops covering the new permit requirements. These workshops were geared toward municipal officials and consultants who would be preparing applications for the September 14 application submission deadline. These workshops were held at various locations across the commonwealth from January through March of this year.

Although administration of the state and federal requirements has been streamlined to the extent allowable, there are nonetheless costs to municipalities associated with the construction, operation and maintenance of stormwater management infrastructure. The funding for these obligations however, is not stable and the lack of funding has resulted in some instances in either compliance struggles under these laws and/or inadequate municipal storm water management.

A reliable funding source should also allow for more holistic watershed based solutions to stormwater issues. This approach ultimately relies on actions by informed county and local officials who must be able to balance health, safety, and environmental protection with economic development and community sustainability. In closing, DEP believes that legislative support for additional funding mechanisms would assist municipalities in meeting their obligations.

Thank you.