

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1177 Session of
1997

INTRODUCED BY GERLACH, OCTOBER 27, 1997

REFERRED TO LOCAL GOVERNMENT, OCTOBER 27, 1997

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; providing for intergovernmental
22 cooperation; further providing for preparation of the
23 comprehensive plan, for compliance by counties, for zoning
24 ordinance provisions and for zoning purposes; and providing
25 for development and implementation of an integrated water
26 resources plan.

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

29 Section 1. The title of the act of July 31, 1968 (P.L.805,

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 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 encourage the protection, conservation and development of water
8 resources; and to permit municipalities to minimize such
9 problems as may presently exist or which may be foreseen.

10 Section 3. Section 107 of the act is amended by adding a
11 subsection to read:

12 Section 107. Definitions.--* * *

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

16 "Department," the Department of Environmental Protection of
17 the Commonwealth.

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

21 "River basin commission," a body politic and corporate
22 created as an agency and instrumentality of the governments that
23 are signatory parties to an interstate compact for the purpose
24 of conserving, utilizing, developing, managing and controlling
25 water and related resources.

26 "Watershed," the term includes:

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

30 (2) a region or area designated as a sub-basin by a river

1 basin commission.

2 Section 4. The act is amended by adding a section to read:

3 Section 212. Intergovernmental Cooperation.--Governing
4 bodies may utilize the authority granted under 53 Pa.C.S. Pt.
5 III Subpt. D (relating to area government and intergovernmental
6 cooperation).

7 Section 5. Section 301(b) of the act is amended to read:

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

9 (b) The comprehensive plan may include a plan for the
10 reliable supply of water, considering current and future water
11 resources availability, uses and limitations, including
12 provisions adequate to protect water supply sources. Any such
13 plan shall be consistent with an integrated water resources plan
14 adopted under Article VIII-B, the State Water Plan and any
15 applicable water resources plan adopted by a river basin
16 commission.

17 Section 6. Section 603 of the act is amended by adding a
18 subsection to read:

19 Section 603. Ordinance Provisions.--* * *

20 (g) Zoning ordinances may provide for the protection,
21 conservation and development of water resources.

22 Section 7. Section 605 of the act is amended by adding a
23 clause to read:

24 Section 605. Classifications.--In any municipality, other
25 than a county, which enacts a zoning ordinance, no part of such
26 municipality shall be left unzoned. The provisions of all zoning
27 ordinances may be classified so that different provisions may be
28 applied to different classes of situations, uses and structures
29 and to such various districts of the municipality as shall be
30 described by a map made part of the zoning ordinance. Where

1 zoning districts are created, all provisions shall be uniform
2 for each class of uses or structures, within each district,
3 except that additional classifications may be made within any
4 district:

5 * * *

6 (5) For the purpose of giving full effect to an
7 integrated water resources plan adopted under Article VIII-B.
8 Section 8. The act is amended by adding an article to read:

9 ARTICLE VIII-B

10 Integrated Water Resources Plan

11 Section 801-B. General Powers.--For the purpose of
12 protecting, conserving and developing water resources within a
13 watershed, the governing bodies of municipalities lying within
14 the watershed may cooperate, in accordance with this article, to
15 enact, amend and repeal an integrated water resources plan.

16 Section 802-B. Preparation of Plan.--(a) An integrated
17 water resources plan shall be prepared by a joint municipal
18 planning commission created under Article XI. In addition to the
19 power to conduct a water study under section 209.1, the joint
20 planning commission shall have the power to do the following:

21 (1) Identify existing water resources, including water
22 resources that originate outside the watershed.

23 (2) Identify existing uses of water resources, including
24 consumptive and conjunctive uses.

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

27 (4) Predict the capacity of the watershed to provide
28 adequate supplies to meet anticipated demands by both
29 withdrawal and nonwithdrawal users.

30 (5) Catalog water resource shortfalls, potential

1 conflicts among users and areas of the watershed that require
2 special management.

3 (6) Consider points of discharge of wastewater to the
4 subsurface and to rivers and streams.

5 (7) Propose programs and procedures, based upon
6 principles of sound hydrologic management of water, effective
7 environmental protection and efficient management to address
8 water resource problems.

9 (8) Propose a program for implementing the integrated
10 water resources plan that is consistent with the plan's
11 objectives and includes schedules for adoption of the plan by
12 participating municipalities and expected State and municipal
13 costs to implement the plan.

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

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

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

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

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

4 Section 804-B. Preparation of Plan.--The provisions of
5 section 808-A shall apply to the preparation of an integrated
6 water resources plan, except that a public hearing on the plan
7 shall be held within each municipality of the proposed
8 integrated water resources plan.

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

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

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

18 (2) That the integrated water resources plan is
19 available for public inspection at the locations specified in
20 the notice.

21 (3) That the department will receive public comment on
22 the integrated water resources plan until the date specified
23 in the notice.

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

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

1 integrated water resources plan.

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

7 (e) Within 180 days following the conclusion of the public
8 hearing on the integrated water resources plan, the department
9 shall do one of the following:

10 (1) Approve the plan as submitted by the joint planning
11 commission.

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

13 (3) Disapprove the plan.

14 (4) Remit the plan with comments to the joint planning
15 commission for further investigation, study, survey and
16 planning.

17 Section 806-B. Adoption of Plan.--(a) Within 60 days
18 following approval of an integrated water resources plan by the
19 department, each municipality that is a party to the plan may
20 enact the plan as an amendment to its comprehensive plan and
21 zoning ordinance and other land use ordinances, if any. Further,
22 all municipalities lying in whole or in part within the
23 watershed must adopt, by ordinance, the integrated water
24 resources plan for such plan to be effective within the
25 watershed.

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

29 Section 807-B. Power to Regulate Uses.--(a) Except as
30 otherwise provided in subsection (b), following adoption of an

1 integrated water resources plan, all municipalities within the
2 watershed shall have the power to regulate uses to implement the
3 provisions of the plan.

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

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

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

30 (b) Nothing in this article shall limit or in any way affect

1 the power of the department to issue permits or take other
2 action under the Water Rights Law or the "Pennsylvania Safe
3 Drinking Water Act."

4 Section 809-B. Grants and Assistance.--The department shall
5 provide grants and technical assistance to municipalities to
6 develop and implement integrated water resources plans. The
7 department shall establish, by regulation, eligibility criteria
8 and an application procedure for the grants.

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

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

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

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

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

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

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

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

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

29 Section 9. All acts and parts of acts are repealed insofar
30 as they are inconsistent with this act.

1 Section 10. This act shall take effect in 60 days.