

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1880 Session of 1977

INTRODUCED BY MESSRS. GEORGE, LETTERMAN, TAYLOR, YAHNER, CASSIDY, D. R. WRIGHT, McCALL, DeMEDIO, KOLTER, PETRARCA, W. D. HUTCHINSON, DUFFY, RAVENSTAHL, LOGUE, MACKOWSKI, CESSAR, DAVIES, STUBAN, GAMBLE, SWEET, LIVENGOOD, ENGLEHART AND B. F. O'BRIEN, NOVEMBER 16, 1977

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 27, 1978

AN ACT

1 Amending the act of June 22, 1937 (P.L.1987, No.394), entitled,
2 as amended, "An act to preserve and improve the purity of the
3 waters of the Commonwealth for the protection of public
4 health, animal and aquatic life, and for industrial
5 consumption, and recreation; empowering and directing the
6 creation of indebtedness or the issuing of non-debt revenue
7 bonds by political subdivisions to provide works to abate
8 pollution; providing protection of water supply; providing
9 for the jurisdiction of courts in the enforcement thereof;
10 providing additional remedies for abating pollution of
11 waters; imposing certain penalties; repealing certain acts;
12 regulating discharges of sewage and industrial wastes;
13 regulating the operation of mines; and placing
14 responsibilities upon landowners and land occupiers,"
15 REQUIRING THE BOARD TO TAKE INTO CONSIDERATION THE RISK OF
16 RAW SEWERAGE ON THE SURFACE GROUND WHEN ESTABLISHING POLICY
17 AND PRIORITIES AND limiting the authority of the Department
18 of Environmental Resources and courts in requiring
19 construction of sewerage facilities by municipalities.

20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. ~~Section~~ SUBSECTION (A) OF SECTION 5 AND SECTION
23 203, act of June 22, 1937 (P.L.1987, No.394), known as "The
24 Clean Streams Law," ADDED OR amended July 31, 1970 (P.L.653,

1 No.222), ~~is~~ ARE amended to read:

<—

2 SECTION 5. POWERS AND DUTIES.--(A) THE BOARD AND THE  
3 DEPARTMENT, IN ADOPTING RULES AND REGULATIONS, IN ESTABLISHING  
4 POLICY AND PRIORITIES, IN ISSUING ORDERS OR PERMITS, AND IN  
5 TAKING ANY OTHER ACTION PURSUANT TO THIS ACT, SHALL, IN THE  
6 EXERCISE OF SOUND JUDGMENT AND DISCRETION, AND FOR THE PURPOSE  
7 OF IMPLEMENTING THE DECLARATION OF POLICY SET FORTH IN SECTION 4  
8 OF THIS ACT, CONSIDER, WHERE APPLICABLE, THE FOLLOWING:

<—

9 (1) WATER QUALITY MANAGEMENT AND POLLUTION CONTROL IN THE  
10 WATERSHED AS A WHOLE;

11 (2) THE PRESENT AND POSSIBLE FUTURE USES OF PARTICULAR  
12 WATERS;

13 (3) THE FEASIBILITY OF COMBINED OR JOINT TREATMENT  
14 FACILITIES;

15 (4) THE STATE OF SCIENTIFIC AND TECHNOLOGICAL KNOWLEDGE;

16 (5) THE IMMEDIATE AND LONG-RANGE ECONOMIC IMPACT UPON THE  
17 COMMONWEALTH AND ITS CITIZENS;

18 (6) THE RISK TO THE POPULATION, ESPECIALLY CHILDREN, OF RAW  
19 SEWERAGE ON THE SURFACE OF THE GROUND.

20 \* \* \*

21 Section 203. Municipal Sewage.--(a) Whether or not a  
22 municipality is required by other provisions of this act to have  
23 a permit for the discharge of sewage, if the department finds  
24 that the acquisition, construction, repair, alteration,  
25 completion, extension or operation of a sewer system or  
26 treatment facility is necessary to properly provide for the  
27 prevention of pollution or prevention of a public health  
28 nuisance, the department may, subject to the limitations set  
29 forth in subsection (c), order such municipality to acquire,  
30 construct, repair, alter, complete, extend, or operate a sewer

1 system and/or treatment facility. Such order shall specify the  
2 length of time, after receipt of the order, within which such  
3 action shall be taken.

4 (b) The department may from time to time order a  
5 municipality to file a report with the department pertaining to  
6 sewer systems or treatment facilities owned, operated, or  
7 maintained by such municipality or pertaining to the effect upon  
8 the waters of the Commonwealth of any sewage discharges  
9 originating from sources within the municipality. The report  
10 shall contain such plans, facts, and information which the  
11 department may require to enable it to determine whether  
12 existing sewer systems and treatment facilities are adequate to  
13 meet the present and future needs or whether the acquisition,  
14 construction, repair, alteration, completion, extension, or  
15 operation of a sewer system or treatment facility should be  
16 required to meet the objectives of this act. Whether or not such  
17 reports are required or received by the department, the  
18 department may, subject to the limitations set forth in  
19 subsection (c), issue appropriate orders to municipalities where  
20 such orders are found to be necessary to assure that there will  
21 be adequate sewer systems and treatment facilities to meet  
22 present and future needs or otherwise to meet the objectives of  
23 this act. Such orders may include, but shall not be limited to,  
24 orders requiring municipalities to undertake studies, to prepare  
25 and submit plans, to acquire, construct, repair, alter,  
26 complete, extend, or operate a sewer system or treatment  
27 facility, or to negotiate with other municipalities for combined  
28 or joint sewer systems or treatment facilities. Such orders may  
29 prohibit sewer system extensions, additional connections, or any  
30 other action that would result in an increase in the sewage that

1 would be discharged into an existing sewer system or treatment  
2 facility.

3 (c) Before compelling a municipality to enter into the  
4 construction phase of a major sewerage project required under  
5 subsection (a) or (b), the department shall determine that the  
6 municipality has selected a cost-effective project for  
7 construction, that the municipality has provided public  
8 disclosure of the proposed project and the costs associated with  
9 that project, including an estimate of the total monthly charge  
10 to a typical residential user, and that the municipality has the  
11 legal, institutional, managerial, and financial capability to  
12 insure adequate construction, operation and maintenance of the  
13 facilities proposed. The department's determination shall be  
14 based on its review of a facilities plan and other documentation  
15 submitted by the municipality as required by the department.

16 Section 2. This act shall take effect ~~in 90 days.~~ <—  
17 IMMEDIATELY AND SHALL BE RETROACTIVE TO JANUARY 1, 1977 AS TO <—  
18 PROJECTS WHERE OBLIGATIONS FOR CONSTRUCTION HAVE NOT BEEN  
19 INCURRED.