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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1880 Session of  
1977

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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

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SENATOR MELLOW, ENVIRONMENTAL RESOURCES, IN SENATE, AS AMENDED,  
SEPTEMBER 19, 1978

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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, AND <—  
20 PROHIBITING CERTAIN RULES AND REGULATIONS OF THE  
21 ENVIRONMENTAL QUALITY BOARD WHICH IMPOSE GREATER LIMITATIONS  
22 THAN THE MINIMAL FEDERAL REQUIREMENTS.

23 The General Assembly of the Commonwealth of Pennsylvania

24 hereby enacts as follows:

25 Section 1. Subsection (a) of section 5 and section 203, act

1 of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams  
2 Law," added or amended July 31, 1970 (P.L.653, No.222), are  
3 amended to read:

4 Section 5. Powers and Duties.--(a) The board and the  
5 department, in adopting rules and regulations, in establishing  
6 policy and priorities, in issuing orders or permits, and in  
7 taking any other action pursuant to this act, shall, in the  
8 exercise of sound judgment and discretion, and for the purpose  
9 of implementing the declaration of policy set forth in section 4  
10 of this act, consider, where applicable, the following:

11 (1) Water quality management and pollution control in the  
12 watershed as a whole;

13 (2) The present and possible future uses of particular  
14 waters;

15 (3) The feasibility of combined or joint treatment  
16 facilities;

17 (4) The state of scientific and technological knowledge;

18 (5) The immediate and long-range economic impact upon the  
19 Commonwealth and its citizens;

20 (6) The risk to the population, especially children, of raw  
21 sewerage on the surface of the ground.

22 \* \* \*

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

1 forth in subsection (c), order such municipality to acquire,  
2 construct, repair, alter, complete, extend, or operate a sewer  
3 system and/or treatment facility. Such order shall specify the  
4 length of time, after receipt of the order, within which such  
5 action shall be taken.

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

1 prohibit sewer system extensions, additional connections, or any  
2 other action that would result in an increase in the sewage that  
3 would be discharged into an existing sewer system or treatment  
4 facility.

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

19 SECTION 2. SECTION 1920-A OF THE ACT, ADDED DECEMBER 3, 1970 ←  
20 (P.L.834, NO.275), IS AMENDED BY ADDING A SUBSECTION TO READ:

21 SECTION 1920-A. ENVIRONMENTAL QUALITY BOARD.--\* \* \*

22 (H) AFTER THE EFFECTIVE DATE OF THIS AMENDATORY ACT, THE  
23 BOARD SHALL NOT PROPOSE OR ADOPT ANY RULE OR REGULATION WHICH  
24 IMPOSES GREATER LIMITATIONS THAN THAT WHICH IS REQUIRED TO MEET  
25 MINIMAL FEDERAL REQUIREMENTS, UNLESS SUCH RULE OR REGULATION IS  
26 SUBSEQUENTLY APPROVED BY THE GENERAL ASSEMBLY.

27 ~~Section 2.~~ This act 3. SECTION 2 OF THIS AMENDATORY ACT ←  
28 SHALL TAKE EFFECT IMMEDIATELY. SECTION 1 OF THIS AMENDATORY ACT  
29 shall take effect immediately and shall be retroactive to  
30 January 1, 1977 as to projects where obligations for

1 construction have not been incurred.