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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 744**

Session of  
1977

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INTRODUCED BY KURY, MURRAY, MELLOW, HOLL AND WOOD,  
APRIL 19, 1977

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AS AMENDED ON THIRD CONSIDERATION, MARCH 7, 1978

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AN ACT

1 Providing for the regulation of land and water use for flood  
2 control and storm water management purposes, imposing duties  
3 and conferring powers on the Department of Environmental  
4 Resources, municipalities and counties, providing for  
5 enforcement and penalties, and making appropriations.

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12      The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14      Section 1.   Short title.

15           This act shall be known and may be cited as the "Storm Water  
16 Management Act."

17      Section 2.   Statement of legislative findings.

18           The General Assembly finds that:

19           (1)   Inadequate management of accelerated runoff of storm  
20 water resulting from development throughout a watershed  
21 increases flood flows and velocities, contributes to erosion  
22 and sedimentation, overtaxes the carrying capacity of streams  
23 and storm sewers, greatly increases the cost of public  
24 facilities to carry and control storm water, undermines flood  
25 plain management and flood control efforts in downstream  
26 communities, reduces ground-water recharge, and threatens  
27 public health and safety.

28           (2)   A comprehensive program of storm water management,  
29 including reasonable regulation of development and activities  
30 causing accelerated runoff, is fundamental to the public

1 health, safety and welfare and the protection of the people  
2 of the Commonwealth, their resources and the environment.

3 Section 3. Purpose and policy.

4 The policy and purpose of this act is to:

5 (1) Encourage planning and management of storm water  
6 runoff in each watershed which is consistent with sound water  
7 and land use practices.

8 (2) Authorize a comprehensive program of storm water  
9 management designated to preserve and restore the flood  
10 carrying capacity of Commonwealth streams; to preserve to the  
11 maximum extent practicable natural storm water runoff regimes  
12 and natural course, current and cross-section of water of the  
13 Commonwealth; and to protect and conserve ground waters and  
14 ground-water recharge areas.

15 (3) Encourage local administration and management of  
16 storm water consistent with the Commonwealth's duty as  
17 trustee of natural resources and the people's constitutional  
18 right to the preservation of natural, economic, scenic,  
19 aesthetic, recreational and historic values of the  
20 environment.

21 Section 4. Definitions.

22 The following words and phrases when used in this act shall  
23 have, unless the context clearly indicates otherwise, the  
24 meanings given to them in this section:

25 "Department." The Department of Environmental Resources of  
26 the Commonwealth of Pennsylvania.

27 "Governmental unit." Any county, municipality, political  
28 subdivision or the Commonwealth, and any department, authority,  
29 agency or board thereof or any agent of the foregoing.

30 "Municipality." A city, borough, town or township, or any

1 county or other governmental unit when acting as an agent  
2 thereof, or any combination thereof acting jointly.

3 "Pennsylvania Municipalities Planning Code." The act of July  
4 31, 1968 (P.L.805, No.247), as amended.

5 "Person." An individual, partnership, public or private  
6 association or corporation, firm, trust, estate, municipality,  
7 governmental unit, public utility or any other legal entity  
8 whatsoever which is recognized by law as the subject of rights  
9 and duties. Whenever used in any section prescribing or imposing  
10 a penalty, the term "person" shall include the members of a  
11 partnership, the officers, members, servants and agents of an  
12 association, ~~the shareholders,~~ officers, agents and servants of ←  
13 a corporation, and the officers of a municipality or county, but  
14 shall exclude any department, board, bureau or agency of the  
15 Commonwealth.

16 "Public utility service." The rendering of the following  
17 services for the public:

- 18 (1) gas, electricity or steam production, generation,  
19 transmission or distribution;
- 20 (2) water diversion, pumping, impoundment, or  
21 distribution;
- 22 (3) railroad transportation of passengers or property;
- 23 (4) operation of a canal, turnpike, tunnel, bridge,  
24 wharf or similar structure;
- 25 (5) transportation of natural or artificial gas, crude  
26 oil, gasoline or petroleum products, materials for  
27 refrigeration or other fluid substances by pipeline or  
28 conduit;
- 29 (6) telephone or telegraph communications; and
- 30 (7) sewage collection, treatment or disposal.

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

3 "Watershed" The entire region or area drained by a river or  
4 other body of water, whether natural or artificial.

5 "Watershed storm water plan." A plan for storm water  
6 management adopted by a county in accordance with section 5.  
7 Section 5. Watershed storm water plans and contents.

8 (a) Within two years following the effective date of this  
9 act, each county shall prepare and adopt a watershed storm water  
10 management plan for each watershed located in the county as  
11 designated by the department, in consultation with the  
12 municipalities located within each watershed, and shall  
13 periodically review and revise such plan at least every five  
14 years.

15 (b) Each watershed storm water plan shall include, but is  
16 not limited to:

17 (1) a survey of existing runoff characteristics in small  
18 as well as large storms, including the impact of soils,  
19 slopes, vegetation and existing development;

20 (2) a survey of existing significant obstructions and  
21 their capacities;

22 (3) An assessment of projected and alternative land  
23 development patterns in the watershed, and the potential  
24 impact of runoff quantity, velocity and quality;

25 (4) an analysis of present and projected development in  
26 flood hazard areas, and its sensitivity to damages from  
27 future flooding or increased runoff;

28 (5) a survey of existing drainage problems and proposed  
29 solutions;

30 (6) a review of existing and proposed storm water

1 collection systems and their impacts;

2 (7) an assessment of alternative runoff control  
3 techniques and their efficiency in the particular watershed;

4 (8) an identification of existing and proposed State,  
5 Federal and local flood control projects located in the  
6 watershed and their design capacities;

7 (9) a designation of those areas to be served by storm  
8 water collection and control facilities within a ten-year  
9 period, an estimate of the design capacity and costs of such  
10 facilities, a schedule and proposed methods of financing the  
11 development, construction and operation of such facilities,  
12 and an identification of the existing or proposed  
13 institutional arrangements to implement and operate the  
14 facilities;

15 (10) an identification of flood plains within the  
16 watershed;

17 (11) criteria and standards for the control of storm  
18 water runoff from existing and new development which are  
19 necessary to minimize dangers to property and life and carry  
20 out the purposes of this act; and

21 (12) provisions for periodically reviewing, revising and  
22 updating the plan.

23 (c) Each watershed storm water plan shall:

24 (1) contain such provisions as are reasonably necessary  
25 to manage storm water such that development or activities in  
26 each municipality within the watershed do not adversely  
27 affect health, safety and property in other municipalities  
28 within the watershed and in basins to which the watershed is  
29 tributary; and

30 (2) consider and be consistent with other existing

1 municipal, county, regional and State environmental and land  
2 use plans.

3 Section 6. Municipal and public participation in watershed  
4 planning.

5 (a) The county shall establish, in conjunction with each  
6 watershed storm water planning program, a watershed plan  
7 advisory committee composed of at least one representative from  
8 each municipality within the watershed, the county soil and  
9 water conservation district and such other agencies or groups as  
10 are necessary and proper to carry out the purposes of the  
11 committee.

12 (b) Each committee shall be responsible for advising the  
13 county throughout the planning process, evaluating policy and  
14 project alternatives, coordinating the watershed storm water  
15 plans with other municipal plans and programs, and reviewing the  
16 plan prior to adoption.

17 (c) Prior to adoption, each plan shall be reviewed by the  
18 official planning agency and governing body of each  
19 municipality, the county planning commission and regional  
20 planning agencies for consistency with other plans and programs  
21 affecting the watershed. All such reviews shall be submitted to  
22 the department with the proposed plan.

23 Section 7. Joint plans and coordination of planning.

24 Where a watershed includes land in more than one county, the  
25 department may require that the affected counties:

26 (1) prepare, adopt and submit a joint plan for the  
27 entire watershed; or

28 (2) take such other actions as may be necessary and  
29 appropriate to coordinate storm water planning for the entire  
30 watershed.

1 Section 8. Adoption and amendment.

2 (a) Prior to adoption or amendment of a watershed storm  
3 water plan, the county shall hold a public hearing pursuant to  
4 public notice of not less than two weeks. The notice shall  
5 contain a brief summary of the principal provisions of the plan,  
6 and a reference to the places within each affected municipality  
7 where copies may be examined or purchased at cost.

8 (b) Adoption or amendment of the plan shall be by resolution  
9 carried by an affirmative vote of at least a majority of the  
10 members of the county governing body. The resolution shall refer  
11 expressly to the maps, charts, textual matter and other  
12 materials intended to form the whole or part of the official  
13 plan, or amendment thereto, and the action shall be recorded on  
14 the adopted plan, part or amendment.

15 Section 9. Review and approval by the department.

16 (a) The department shall, in consultation with the  
17 Department of Community Affairs, review all watershed storm  
18 water plans and revisions or amendments thereto. It shall  
19 approve the plan if it determines:

20 (1) that the plan is consistent with municipal flood  
21 plain management plans, State programs which regulate dams,  
22 encroachments, and water obstructions, and State and Federal  
23 flood control programs; and

24 (2) that the plan is compatible with other watershed  
25 storm water plans for the basin in which the watershed is  
26 located, and is consistent with the policies and purposes of  
27 this act.

28 (b) Any person aggrieved by a final decision of the  
29 department approving or disapproving a watershed plan or  
30 amendment thereto, may appeal the decision to the Environmental

1 Hearing Board in accordance with the provisions of section 1921-  
2 A of the act of April 9, 1929 (P.L.177, No.175), known as "The  
3 Administrative Code of 1929," and the act of June 4, 1945  
4 (P.L.1388, No.442), known as the "Administrative Agency Law."  
5 Section 10. Failure to submit plan; mandamus.

6 The department may institute an action in mandamus in the  
7 Commonwealth Court or the court of common pleas of the county or  
8 counties in which the watershed is located, to compel counties  
9 to adopt and submit plans in accordance with this act.

10 Section 11. Effect of watershed storm water plans.

11 (a) After adoption and approval of a watershed storm water  
12 plan in accordance with this act, the location, design and  
13 construction within the watershed of storm water management  
14 systems, obstructions, flood control projects, subdivisions and  
15 major land developments, highways and transportation facilities,  
16 facilities for the provision of public utility services and  
17 facilities owned or financed in whole or in part by funds from  
18 the Commonwealth shall be conducted in a manner consistent with  
19 the watershed storm water plan.

20 (b) Within six months following adoption and approval of the  
21 watershed storm water plan, each municipality shall adopt or  
22 amend, and shall implement such ordinances and regulations,  
23 including zoning, subdivision and development, building code,  
24 and erosion and sedimentation ordinances, as are necessary to  
25 regulate development within the municipality in a manner  
26 consistent with the applicable watershed storm water plan and  
27 the provisions of this act.

28 Section 12. Failure of municipalities to adopt implementing  
29 ordinances.

30 (a) If the department finds that a municipality has failed

1 to adopt or amend, and implement such ordinances and regulations  
2 as required by section 11, the department shall provide written  
3 notice of violation to the municipality.

4 (b) Within 60 days of receipt of the notice of violation,  
5 the municipality shall report to the department the action which  
6 it is taking to comply with the requirement or regulation.

7 (c) If within 180 days of receipt of the notice of  
8 violation, the municipality has failed to comply with such  
9 requirement or regulation, as determined by the department, the  
10 Secretary of Community Affairs shall notify the State Treasurer  
11 to withhold payment of all funds payable to the municipality  
12 from the General Fund or any other fund. Upon notification, the  
13 State Treasurer shall hold in escrow all moneys due to such  
14 municipality from the Commonwealth until such time as the  
15 department notifies the State Treasurer that the municipality  
16 has complied with such requirement or regulation.

17 Section 13. Duty of persons engaged in the development of land.

18 Any landowner and any person engaged in the alteration or  
19 development of land which may affect storm water runoff  
20 characteristics shall implement such measures consistent with  
21 the provisions of the applicable watershed storm water plan as  
22 are reasonably necessary to prevent injury to health, safety or  
23 other property. Such measures shall include such actions as are  
24 required:

25 (1) to assure that the maximum rate of storm water  
26 runoff is no greater after development than prior to  
27 development activities; or

28 (2) to manage the quantity, velocity and direction of  
29 resulting storm water runoff in a manner which otherwise  
30 adequately protects health and property from possible injury.

1 Section 14. Powers and duties of the Department of  
2 Environmental Resources.

3 The Department of Environmental Resources shall have the  
4 power and its duty shall be to:

5 (1) Coordinate the management of storm water in the  
6 Commonwealth.

7 (2) Provide in cooperation with the Department of  
8 Community Affairs technical assistance to counties and  
9 municipalities in implementing this act.

10 (3) Publish guidelines for storm water management, and  
11 model storm water ordinances for use by counties and  
12 municipalities.

13 (4) Review, in cooperation with the Department of  
14 Community Affairs, and approve all watershed plans and  
15 revisions thereto.

16 (5) Cooperate with appropriate agencies of the United  
17 States or of other states or any interstate agencies with  
18 respect to the planning and management of storm water.

19 (6) Serve as the agency of the Commonwealth for the  
20 receipt of moneys from the Federal Government or other public  
21 or private agencies or persons and expend such moneys as  
22 appropriated by the General Assembly for studies and research  
23 with respect to planning and management of storm water.

24 (7) Conduct studies and research regarding the causes,  
25 effects and hazards of storm water and methods for storm  
26 water management.

27 (8) Conduct and supervise educational programs with  
28 respect to storm water management.

29 (9) Require the submission of records and periodic  
30 reports by county and municipal agencies as necessary to

1 carry out the purposes of this act.

2 (10) Do any other acts not inconsistent with this act  
3 necessary to carry out the purposes and policies of this act.

4 Section 15. Civil remedies.

5 (a) Any activity conducted in violation of the provisions of  
6 this act or of any watershed storm water plan, regulations or  
7 ordinances adopted hereunder, is hereby declared a public  
8 nuisance.

9 (b) Suits to restrain, prevent or abate violation of this  
10 act or of any watershed storm water plan, regulations or  
11 ordinances adopted hereunder, may be instituted in equity or at  
12 law by the department, any affected county or municipality, or  
13 any aggrieved person. Such proceedings may be prosecuted in the  
14 Commonwealth Court, or in the court of common pleas of the  
15 county where the activity has taken place, the condition exists,  
16 or the public affected, and to that end jurisdiction is hereby  
17 conferred in law and equity upon such courts. Except in cases of  
18 emergency where, in the opinion of the court, the circumstances  
19 of the case require immediate abatement of the unlawful conduct,  
20 the court may, in its decree, fix a reasonable time during which  
21 the person responsible for the unlawful conduct shall correct or  
22 abate the same. The expense of such proceedings shall be  
23 recoverable from the violator in such manner as may now or  
24 hereafter be provided by law.

25 (c) Any person injured by conduct which violates the  
26 provisions of section 13 may, in addition to any other remedy  
27 provided under this act, recover damages caused by such  
28 violation from the landowner or other responsible person.

29 Section 16. Criminal penalties.

30 (a) Any person who violates the provisions of this act or of

1 a watershed storm water plan, regulation or ordinance adopted  
2 hereunder, is guilty of a summary offense and, upon conviction,  
3 shall be sentenced to pay a fine of not less than \$100 nor more  
4 than \$1,000 for each separate offense, and, in default of the  
5 payment of such fine, to imprisonment for a period of not more  
6 than 60 days.

7 (b) Any person who, within two years after a conviction in a  
8 summary proceeding as provided in subsection (a), violates the  
9 provisions of this act or of a watershed storm water plan,  
10 regulations or ordinances adopted hereunder, is guilty of a  
11 misdemeanor and, upon conviction, shall be sentenced to pay a  
12 fine of not less than \$500 nor more than \$5,000 for each  
13 separate offense or to imprisonment for a period of not more  
14 than one year, or both.

15 (c) Each day of continued violation shall constitute a  
16 separate offense under subsections (a) and (b). Any criminal  
17 penalty collected under this act shall be paid to the  
18 municipality or municipalities in which the violation occurred  
19 to be used by said municipality or municipalities in achieving  
20 the purposes of this act.

21 Section 17. Preservation of existing rights and remedies.

22 (a) The collection of any penalty under the provisions of  
23 this act shall not be construed as estopping the Commonwealth,  
24 any county, municipality or aggrieved person from proceeding in  
25 courts of law or equity to abate nuisances under existing law or  
26 to restrain, at law or in equity, violation of this act.

27 (b) It is hereby declared to be the purpose of this act to  
28 provide additional and cumulative remedies to abate nuisances.

29 Section 18. Appropriations.

30 The sum of \$500,000 or as much thereof as may be necessary,

1 is hereby appropriated for the fiscal period beginning July 1,  
2 1978, and ending June 30, 1979, to the Department of  
3 Environmental Resources for the purposes of administrative and  
4 general expenses in implementing the provisions of this act.

5 Section 19. Repealer and savings clause.

6 (a) All acts or parts of acts inconsistent herewith are  
7 hereby repealed to the extent of such inconsistency.

8 (b) The provisions of this act shall not affect any suit or  
9 prosecution pending or to be instituted to enforce any right or  
10 penalty or punish any offense under the authority of any act of  
11 Assembly or part thereof repealed by this act.

12 Section 20. Effective date.

13 This act shall take effect immediately.