
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 744

Session of
1977

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

AS AMENDED ON THIRD CONSIDERATION, MARCH 14, 1978

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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The General Assembly of the Commonwealth of Pennsylvania

14 hereby enacts as follows:

15 Section 1. Short title.

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

18 Section 2. Statement of legislative findings.

The General Assembly finds that:

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

(2) A comprehensive program of storm water management, including reasonable regulation of development and activities

1 causing accelerated runoff, is fundamental to the public
2 health, safety and welfare and the protection of the people
3 of the Commonwealth, their resources and the environment.

4 Section 3. Purpose and policy.

5 The policy and purpose of this act is to:

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

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

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

22 Section 4. Definitions.

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

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

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

1 "Municipality." A city, borough, town or township, or any
2 county or other governmental unit when acting as an agent
3 thereof, or any combination thereof acting jointly.

4 "Pennsylvania Municipalities Planning Code." The act of July
5 31, 1968 (P.L.805, No.247), as amended.

6 "Person." An individual, partnership, public or private
7 association or corporation, firm, trust, estate, municipality,
8 governmental unit, public utility or any other legal entity
9 whatsoever which is recognized by law as the subject of rights
10 and duties. Whenever used in any section prescribing or imposing
11 a penalty, the term "person" shall include the members of a
12 partnership, the officers, members, servants and agents of an
13 association, officers, agents and servants of a corporation, and
14 the officers of a municipality or county, but shall exclude any
15 department, board, bureau or agency of the 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,~~ THE PROMULGATION OF GUIDELINES BY THE DEPARTMENT PURSUANT <—
10 TO SECTION 14, each county shall prepare and adopt a watershed
11 storm water management plan for each watershed located in the
12 county as designated by the department, in consultation with the
13 municipalities located within each watershed, and shall
14 periodically review and revise such plan at least every five
15 years. THE DEPARTMENT MAY, FOR GOOD CAUSE SHOWN, GRANT AN <—
16 EXTENSION OF TIME TO ANY COUNTY FOR THE PREPARATION AND ADOPTION
17 OF A WATERSHED STORM WARTER MANAGEMENT PLAN.

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

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

23 (2) a survey of existing significant obstructions and
24 their capacities;

25 (3) An assessment of projected and alternative land
26 development patterns in the watershed, and the potential
27 impact of runoff quantity, velocity and quality;

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

1 (5) a survey of existing drainage problems and proposed
2 solutions;

3 (6) a review of existing and proposed storm water
4 collection systems and their impacts;

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

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

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

18 (10) an identification of flood plains within the
19 watershed;

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

24 (12) PRIORITIES FOR IMPLEMENTATION OF ACTION WITHIN EACH ←
25 PLAN; AND

26 (12) (13) provisions for periodically reviewing, ←
27 revising and updating the plan.

28 (c) Each watershed storm water plan shall:

29 (1) contain such provisions as are reasonably necessary
30 to manage storm water such that development or activities in

1 each municipality within the watershed do not adversely
2 affect health, safety and property in other municipalities
3 within the watershed and in basins to which the watershed is
4 tributary; and

5 (2) consider and be consistent with other existing
6 municipal, county, regional and State environmental and land
7 use plans.

8 Section 6. Municipal and public participation in watershed
9 planning.

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

17 (b) Each committee shall be responsible for advising the
18 county throughout the planning process, evaluating policy and
19 project alternatives, coordinating the watershed storm water
20 plans with other municipal plans and programs, and reviewing the
21 plan prior to adoption.

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

28 Section 7. Joint plans and coordination of planning.

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

- 1 (1) prepare, adopt and submit a joint plan for the
2 entire watershed; or
3 (2) take such other actions as may be necessary and
4 appropriate to coordinate storm water planning for the entire
5 watershed.

6 Section 8. Adoption and amendment.

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

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

20 Section 9. Review and approval by the department.

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

25 (1) that the plan is consistent with municipal flood
26 plain management plans, State programs which regulate dams,
27 encroachments, and water obstructions, and State and Federal
28 flood control programs; and

29 (2) that the plan is compatible with other watershed
30 storm water plans for the basin in which the watershed is

1 located, and is consistent with the policies and purposes of
2 this act.

3 (b) Any person aggrieved by a final decision of the
4 department approving or disapproving a watershed plan or
5 amendment thereto, may appeal the decision to the Environmental
6 Hearing Board in accordance with the provisions of section 1921-
7 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
8 Administrative Code of 1929," and the act of June 4, 1945
9 (P.L.1388, No.442), known as the "Administrative Agency Law."

10 Section 10. Failure to submit plan; mandamus.

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

15 Section 11. Effect of watershed storm water plans.

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

25 (b) Within six months following adoption and approval of the
26 watershed storm water plan, each municipality shall adopt or
27 amend, and shall implement such ordinances and regulations,
28 including zoning, subdivision and development, building code,
29 and erosion and sedimentation ordinances, as are necessary to
30 regulate development within the municipality in a manner

1 consistent with the applicable watershed storm water plan and
2 the provisions of this act.

3 Section 12. Failure of municipalities to adopt implementing
4 ordinances.

5 (a) If the department finds that a municipality has failed
6 to adopt or amend, and implement such ordinances and regulations
7 as required by section 11, the department shall provide written
8 notice of violation to the municipality.

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

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

22 (D) ANY PERSON AGGRIEVED BY AN ACTION OF THE DEPARTMENT <—
23 TAKEN PURSUANT TO SUBSECTION (C) SHALL HAVE THE RIGHT WITHIN 30
24 DAYS OF RECEIPT OF NOTICE OF SUCH ACTION TO APPEAL SUCH ACTION
25 TO THE ENVIRONMENTAL HEARING BOARD, PURSUANT TO SECTION 1921-A,
26 ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS "THE
27 ADMINISTRATIVE CODE OF 1929," AND THE ACT OF JUNE 4, 1945
28 (P.L.1388, NO.442), KNOWN AS THE "ADMINISTRATIVE AGENCY LAW."

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

30 Any landowner and any person engaged in the alteration or

development of land which may affect storm water runoff characteristics shall implement such measures consistent with the provisions of the applicable watershed storm water plan as are reasonably necessary to prevent injury to health, safety or other property. Such measures shall include such actions as are required:

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

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

13 Section 14. Powers and duties of the Department of
14 Environmental Resources.

15 The Department of Environmental Resources shall have the
16 power and its duty shall be to:

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

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

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

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

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

1 (6) Serve as the agency of the Commonwealth for the
2 receipt of moneys from the Federal Government or other public
3 or private agencies or persons and expend such moneys as
4 appropriated by the General Assembly for studies and research
5 with respect to planning and management of storm water.

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

9 (8) Conduct and supervise educational programs with
10 respect to storm water management.

11 (9) Require the submission of records and periodic
12 reports by county and municipal agencies as necessary to
13 carry out the purposes of this act.

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

16 Section 15. Civil remedies.

17 (a) Any activity conducted in violation of the provisions of
18 this act or of any watershed storm water plan, regulations or
19 ordinances adopted hereunder, is hereby declared a public
20 nuisance.

21 (b) Suits to restrain, prevent or abate violation of this
22 act or of any watershed storm water plan, regulations or
23 ordinances adopted hereunder, may be instituted in equity or at
24 law by the department, any affected county or municipality, or
25 any aggrieved person. Such proceedings may be prosecuted in the
26 Commonwealth Court, or in the court of common pleas of the
27 county where the activity has taken place, the condition exists,
28 or the public affected, and to that end jurisdiction is hereby
29 conferred in law and equity upon such courts. Except in cases of
30 emergency where, in the opinion of the court, the circumstances

1 of the case require immediate abatement of the unlawful conduct,
2 the court may, in its decree, fix a reasonable time during which
3 the person responsible for the unlawful conduct shall correct or
4 abate the same. The expense of such proceedings shall be
5 recoverable from the violator in such manner as may now or
6 hereafter be provided by law.

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

11 Section 16. Criminal penalties.

12 (a) Any person who violates the provisions of this act or of
13 a watershed storm water plan, regulation or ordinance adopted
14 hereunder, is guilty of a summary offense and, upon conviction,
15 shall be sentenced to pay a fine of not less than \$100 nor more
16 than \$1,000 for each separate offense, and, in default of the
17 payment of such fine, to imprisonment for a period of not more
18 than 60 days.

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

27 (c) Each day of continued violation shall constitute a
28 separate offense under subsections (a) and (b). Any criminal
29 penalty collected under this act shall be paid to the
30 municipality or municipalities in which the violation occurred

1 to be used by said municipality or municipalities in achieving
2 the purposes of this act.

3 Section 17. Preservation of existing rights and remedies.

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

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

11 SECTION 18. GRANTS AND REIMBURSEMENTS TO COUNTIES. <—

12 (A) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES IS AUTHORIZED
13 TO ADMINISTER GRANTS TO COUNTIES TO ASSIST OR REIMBURSE THEM FOR
14 COSTS IN PREPARING OFFICIAL STORM WATER MANAGEMENT PLANS
15 REQUIRED BY THIS ACT. GRANTS AND REIMBURSEMENTS SHALL BE MADE
16 FROM AND TO THE EXTENT OF FUNDS APPROPRIATED BY THE GENERAL
17 ASSEMBLY FOR SUCH PURPOSES, AND SHALL BE MADE IN ACCORDANCE TO
18 RULES AND REGULATIONS ADOPTED BY THE ENVIRONMENTAL QUALITY
19 BOARD.

20 (1) THE GRANT SHALL BE EQUAL TO 50% OF THE ALLOWABLE
21 COSTS FOR PREPARATION OF OFFICIAL STORM WATER MANAGEMENT
22 PLANS INCURRED BY ANY COUNTY.

23 (2) FOR THE PURPOSES OF THIS SECTION, SUCH STATE GRANTS
24 SHALL BE IN ADDITION TO GRANTS FOR SIMILAR PURPOSES MADE TO
25 ANY COUNTY BY THE FEDERAL GOVERNMENT: PROVIDED, THAT THE
26 GRANTS AUTHORIZED BY THIS SECTION SHALL BE LIMITED SUCH THAT
27 THE TOTAL OF ALL STATE AND FEDERAL GRANTS DOES NOT EXCEED 50%
28 OF THE ALLOWABLE COSTS INCURRED BY THE COUNTY.

29 (B) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO IMPAIR OR
30 LIMIT APPLICATION OF THIS ACT TO ANY MUNICIPALITY OR PERSON, OR

1 TO RELIEVE ANY MUNICIPALITY OR PERSON OF DUTIES IMPOSED UNDER
2 THIS ACT.

3 (C) IF, IN ANY FISCAL YEAR, APPROPRIATIONS ARE INSUFFICIENT
4 TO COVER THE COSTS OR GRANTS AND REIMBURSEMENT TO ALL COUNTIES
5 ELIGIBLE FOR SUCH GRANTS AND REIMBURSEMENTS IN THAT FISCAL YEAR,
6 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL REPORT SUCH FACT
7 TO THE GENERAL ASSEMBLY AND SHALL REQUEST APPROPRIATION OF FUNDS
8 NECESSARY TO PROVIDE THE GRANTS AUTHORIZED IN THIS SECTION. IF
9 SUCH A DEFICIENCY APPROPRIATION IS NOT ENACTED, ANY COUNTY WHICH
10 HAS NOT RECEIVED THE FULL AMOUNT OF THE GRANT FOR WHICH IT IS
11 ELIGIBLE UNDER THIS SECTION SHALL BE AS A FIRST PRIORITY
12 REIMBURSED FROM APPROPRIATIONS MADE IN THE NEXT SUCCESSIVE
13 FISCAL YEAR.

14 Section 18 19. Appropriations. <—

15 The sum of \$500,000, or as much thereof as may be necessary,
16 is hereby appropriated for the fiscal period beginning July 1,
17 1978, and ending June 30, 1979, to the Department of
18 Environmental Resources for the purposes of administrative and
19 general expenses in implementing the provisions of this act.

20 Section 19 20. Repealer and savings clause. <—

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

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

27 Section 20 21. Effective date. <—

28 This act shall take effect immediately.