
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, APRIL 3, 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. ←

6 TABLE OF CONTENTS

- 7 Section 1. Short title.
- 8 Section 2. Statement of legislative findings.
- 9 Section 3. Purpose and policy.
- 10 Section 4. Definitions.
- 11 Section 5. Watershed storm water plans and contents.
- 12 Section 6. Municipal and public participation in watershed
13 planning.
- 14 Section 7. Joint plans and coordination of planning.
- 15 Section 8. Adoption and amendment.
- 16 Section 9. Review and approval by the department.
- 17 Section 10. Failure to submit plan; mandamus.
- 18 Section 11. Effect of watershed storm water plans.
- 19 Section 12. Failure of municipalities to adopt implementing

1 ordinances.

2 Section 13. Duty of persons engaged in the development of
3 land.

4 Section 14. Powers and duties of the Department of
5 Environmental Resources.

6 Section 15. Civil remedies.

7 ~~Section 16. Criminal penalties.~~ <—

8 Section ~~17~~ 16. Preservation of existing rights and remedies. <—

9 Section ~~18~~ 17. Grants and reimbursements to counties. <—

10 Section ~~19~~ 18. Appropriations. <—

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

12 Section ~~21~~ 20. Effective date. <—

13 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.

19 The General Assembly finds that:

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

29 (2) A comprehensive program of storm water management,
30 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 promulgation of
9 guidelines by the department pursuant to section 14, each county
10 shall prepare and adopt a watershed storm water management plan
11 for each watershed located in the county as designated by the
12 department, in consultation with the municipalities located
13 within each watershed, and shall periodically review and revise
14 such plan at least every five years. The department may, for
15 good cause shown, grant an extension of time to any county for
16 the preparation and adoption of a watershed storm water
17 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;

24 (12) Priorities for implementation of action within each
25 plan; and

26 (13) provisions for periodically reviewing, revising and
27 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 located, and is consistent with the policies and purposes of
2 this act.

3 (B) SHOULD THE DEPARTMENT NEITHER APPROVE OR DISAPPROVE A ←
4 WATERSHED PLAN OR AMENDMENT OR REVISION THERETO WITHIN 90 DAYS
5 OF ITS SUBMISSION TO THE DEPARTMENT, THE PLAN OR AMENDMENT OR
6 REVISION SHALL BE DEEMED TO BE APPROVED.

7 ~~(b)~~ (C) Any person aggrieved by a final decision of the ←
8 department approving or disapproving a watershed plan or
9 amendment thereto, may appeal the decision to the Environmental
10 Hearing Board in accordance with the provisions of section 1921-
11 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
12 Administrative Code of 1929," and the act of June 4, 1945
13 (P.L.1388, No.442), known as the "Administrative Agency Law."
14 Section 10. Failure to submit plan; mandamus.

15 The department may institute an action in mandamus in the
16 Commonwealth Court ~~or the court of common pleas of the county or ←~~
17 ~~counties in which the watershed is located,~~ to compel counties
18 to adopt and submit plans in accordance with this act.

19 Section 11. Effect of watershed storm water plans.

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

29 (b) Within six months following adoption and approval of the
30 watershed storm water plan, each municipality shall adopt or

1 amend, and shall implement such ordinances and regulations,
2 including zoning, subdivision and development, building code,
3 and erosion and sedimentation ordinances, as are necessary to
4 regulate development within the municipality in a manner
5 consistent with the applicable watershed storm water plan and
6 the provisions of this act.

7 Section 12. Failure of municipalities to adopt implementing
8 ordinances.

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

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

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

26 (d) Any person aggrieved by an action of the department
27 taken pursuant to subsection (c) shall have the right within 30
28 days of receipt of notice of such action to appeal such action
29 to the Environmental Hearing Board, pursuant to section 1921-A,
30 act of April 9, 1929 (P.L.177, No.175), known as "The

1 Administrative Code of 1929," and the act of June 4, 1945
2 (P.L.1388, No.442), known as the "Administrative Agency Law."
3 Section 13. Duty of persons engaged in the development of land.

4 Any landowner and any person engaged in the alteration or
5 development of land which may affect storm water runoff
6 characteristics shall implement such measures consistent with
7 the provisions of the applicable watershed storm water plan as
8 are reasonably necessary to prevent injury to health, safety or
9 other property. Such measures shall include such actions as are
10 required:

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

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

17 Section 14. Powers and duties of the Department of
18 Environmental Resources.

19 (A) The Department of Environmental Resources shall have the <—
20 power and its duty shall be to:

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

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

26 (3) ~~Publish~~ AFTER NOTICE AND PUBLIC HEARING AND SUBJECT <—
27 TO THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION,
28 PUBLISH guidelines for storm water management, and model
29 storm water ordinances for use by counties and
30 municipalities.

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

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

7 (6) Serve as the agency of the Commonwealth for the
8 receipt of moneys from the Federal Government or other public
9 or private agencies or persons and expend such moneys as
10 appropriated by the General Assembly for studies and research
11 with respect to planning and management of storm water.

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

15 (8) Conduct and supervise educational programs with
16 respect to storm water management.

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

20 (10) AFTER NOTICE AND HEARING AND WITH THE APPROVAL OF <—
21 THE ENVIRONMENTAL QUALITY BOARD, DESIGNATE WATERSHEDS FOR THE
22 PURPOSE OF THIS ACT.

23 ~~(10)~~ (11) Do ~~any~~ SUCH other acts ~~not inconsistent~~ <—
24 CONSISTENT with this act ~~necessary~~ REQUIRED to carry out the <—
25 purposes and policies of this act.

26 (B) THE GUIDELINES FOR STORM WATER MANAGEMENT AND MODEL <—
27 STORM WATER ORDINANCES SHALL BE SUBMITTED TO THE GENERAL
28 ASSEMBLY FOR APPROVAL OR DISAPPROVAL AND SHALL BE CONSIDERED BY
29 THE GENERAL ASSEMBLY UNDER THE PROCEDURES CREATED FOR
30 CONSIDERATION OF REORGANIZATION PLAN PROVIDED IN THE ACT OF

1 APRIL 7, 1955 (P.L.23, NO.8), KNOWN AS THE "REORGANIZATION ACT
2 OF 1955.

3 Section 15. Civil remedies.

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

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

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

28 ~~Section 16. Criminal penalties.~~

29 ~~(a) Any person who violates the provisions of this act or of~~
30 ~~a watershed storm water plan, regulation or ordinance adopted~~

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

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

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

20 Section ~~17~~ 16. Preservation of existing rights and remedies. <—

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

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

28 Section ~~18~~ 17. Grants and reimbursements to counties. <—

29 (a) The Department of Environmental Resources is authorized
30 to administer grants to counties to assist or reimburse them for

1 costs in preparing official storm water management plans
2 required by this act. Grants and reimbursements shall be made
3 from and to the extent of funds appropriated by the General
4 Assembly for such purposes, and shall be made in accordance to
5 rules and regulations adopted by the Environmental Quality
6 Board.

7 (1) The grant shall be equal to 50% of the allowable
8 costs for preparation of official storm water management
9 plans incurred by any county.

10 (2) For the purposes of this section, such State grants
11 shall be in addition to grants for similar purposes made to
12 any county by the Federal Government: Provided, That the
13 grants authorized by this section shall be limited such that
14 the total of all State and Federal grants does not exceed 50%
15 of the allowable costs incurred by the county.

16 (b) Nothing in this section shall be construed to impair or
17 limit application of this act to any municipality or person, or
18 to relieve any municipality or person of duties imposed under
19 this act.

20 (c) If, in any fiscal year, appropriations are insufficient
21 to cover the costs or grants and reimbursement to all counties
22 eligible for such grants and reimbursements in that fiscal year,
23 the Department of Environmental Resources shall report such fact
24 to the General Assembly and shall request appropriation of funds
25 necessary to provide the grants authorized in this section. If
26 such a deficiency appropriation is not enacted, any county which
27 has not received the full amount of the grant for which it is
28 eligible under this section shall be as a first priority
29 reimbursed from appropriations made in the next successive
30 fiscal year.

1 Section ~~19~~ 18. Appropriations. ←

2 The sum of \$500,000, or as much thereof as may be necessary,
3 is hereby appropriated for the fiscal period beginning July 1,
4 1978, and ending June 30, 1979, to the Department of
5 Environmental Resources for the purposes of administrative and
6 general expenses in implementing the provisions of this act.

7 Section ~~20~~ 19. Repealer and savings clause. ←

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

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

14 Section ~~21~~ 20. Effective date. ←

15 This act shall take effect immediately.