
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 744

Session of
1977

INTRODUCED BY KURY, MURRAY, MELLOW, HOLL AND WOOD,
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AS RE-REPORTED FROM COMMITTEE ON CONSERVATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 19, 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 making appropriations.

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

1 "Pennsylvania Municipalities Planning Code." The act of July
2 31, 1968 (P.L.805, No.247), as amended.

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

13 "Public utility service." The rendering of the following
14 services for the public:

15 (1) gas, electricity or steam production, generation,
16 transmission or distribution;

17 (2) water diversion, pumping, impoundment, or
18 distribution;

19 (3) railroad transportation of passengers or property;

20 (4) operation of a canal, turnpike, tunnel, bridge,
21 wharf or similar structure;

22 (5) transportation of natural or artificial gas, crude
23 oil, gasoline or petroleum products, materials for
24 refrigeration or other fluid substances by pipeline or
25 conduit;

26 (6) telephone or telegraph communications; and

27 (7) sewage collection, treatment or disposal.

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

30 "Watershed" The entire region or area drained by a river or

1 other body of water, whether natural or artificial.

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

5 (a) Within two years following the promulgation of
6 guidelines by the department pursuant to section 14, each county
7 shall prepare and adopt a watershed storm water management plan
8 for each watershed located in the county as designated by the
9 department, in consultation with the municipalities located
10 within each watershed, and shall periodically review and revise
11 such plan at least every five years. The department may, for
12 good cause shown, grant an extension of time to any county for
13 the preparation and adoption of a watershed storm water
14 management plan.

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;

21 (12) Priorities for implementation of action within each
22 plan; and

23 (13) provisions for periodically reviewing, revising and
24 updating the plan.

25 (c) Each watershed storm water plan shall:

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

1 tributary; and

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

5 Section 6. Municipal and public participation in watershed
6 planning.

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

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

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

25 Section 7. Joint plans and coordination of planning.

26 Where a watershed includes land in more than one county, the
27 department may require the affected counties to prepare, adopt
28 and submit a joint plan for the entire watershed.

29 Section 8. Adoption and amendment.

30 (a) Prior to adoption or amendment of a watershed storm

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

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

13 Section 9. Review and approval by the department.

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

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

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

26 (b) Should the department neither approve or disapprove a
27 watershed plan or amendment or revision thereto within 90 days
28 of its submission to the department, the plan or amendment or
29 revision shall be deemed to be approved.

30 (c) Any person aggrieved by a final decision of the

1 department approving or disapproving a watershed plan or
2 amendment thereto, may appeal the decision to the Environmental
3 Hearing Board in accordance with the provisions of section 1921-
4 A of the act of April 9, 1929 (P.L.177, No.175), known as "The
5 Administrative Code of 1929," and the act of June 4, 1945
6 (P.L.1388, No.442), known as the "Administrative Agency Law."
7 Section 10. Failure to submit plan; mandamus.

8 The department may institute an action in mandamus in the
9 Commonwealth Court to compel counties to adopt and submit plans
10 in accordance with this act.

11 Section 11. Effect of watershed storm water plans.

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

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

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

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

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

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

18 (C) IF WITHIN 180 DAYS OF RECEIPT OF THE NOTICE OF <—
19 VIOLATION, THE MUNICIPALITY HAS FAILED TO COMPLY WITH SUCH
20 REQUIREMENT OR REGULATION, AS DETERMINED BY THE DEPARTMENT, THE
21 DEPARTMENT SHALL NOTIFY THE STATE TREASURER TO WITHHOLD PAYMENT
22 OF ALL FUNDS PAYABLE TO THE MUNICIPALITY FROM THE GENERAL FUND.
23 PROVIDED, THAT PRIOR TO ANY WITHHOLDING OF FUNDS, THE DEPARTMENT
24 SHALL GIVE BOTH NOTICE TO THE MUNICIPALITY OF ITS INTENTION TO
25 NOTIFY THE STATE TREASURER TO WITHHOLD PAYMENT OF FUNDS AND THE
26 RIGHT TO APPEAL THE DECISION OF THE DEPARTMENT WITHIN THE 180-
27 DAY PERIOD FOLLOWING NOTIFICATION. THE HEARING SHALL BE
28 CONDUCTED BEFORE THE ENVIRONMENTAL HEARING BOARD IN ACCORDANCE
29 WITH THE PROVISIONS OF THE ACT OF APRIL 9, 1929 (P.L.177,
30 NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," AND

1 CHAPTERS 5 AND 7 OF TITLE 2 (ADMINISTRATIVE LAW AND PROCEDURE),
2 KNOWN AS THE PENNSYLVANIA CONSOLIDATED STATUTES. IF AN APPEAL IS
3 FILED WITHIN THE 180-DAY PERIOD, FUNDS SHALL NOT BE WITHHELD
4 FROM THE MUNICIPALITY UNTIL THE APPEAL IS DECIDED.

5 (d) Any person, OTHER THAN A MUNICIPALITY, aggrieved by an <—
6 action of the department ~~taken pursuant to subsection (c)~~ shall <—
7 have the right within 30 days of receipt of notice of such
8 action to appeal such action to the Environmental Hearing Board,
9 pursuant to section 1921-A, act of April 9, 1929 (P.L.177,
10 No.175), known as "The Administrative Code of 1929," and the act <—
11 ~~of June 4, 1945 (P.L.1388, No.442), known as the "Administrative~~
12 ~~Agency Law."~~ PROVISIONS OF CHAPTERS 5 AND 7 OF TITLE 2 <—
13 (ADMINISTRATIVE LAW AND PROCEDURE) KNOWN AS THE PENNSYLVANIA
14 CONSOLIDATED STATUTES.

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

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

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

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

29 Section 14. Powers and duties of the Department of
30 Environmental Resources.

1 (a) The Department of Environmental Resources shall have the
2 power and its duty shall be to:

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

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

8 (3) After notice and public hearing and subject to the
9 requirements of subsection (b) of this section, publish
10 guidelines for storm water management, and model storm water
11 ordinances for use by counties and municipalities.

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

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

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

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

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

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

1 (10) AFTER NOTICE AND HEARING AND WITH THE APPROVAL OF
2 THE ENVIRONMENTAL QUALITY BOARD, DESIGNATE WATERSHEDS FOR THE
3 PURPOSE OF THIS ACT.

4 (11) Do such other acts consistent with this act
5 required to carry out the purposes and policies of this act.

6 (b) The guidelines for storm water management and model
7 storm water ordinances shall be submitted to the General
8 Assembly for approval or disapproval and shall be considered by
9 the General Assembly under the procedures created for
10 consideration of Reorganization Plan provided in the act of
11 April 7, 1955 (P.L.23, No.8), known as the "Reorganization Act
12 of 1955.

13 Section 15. Civil remedies.

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

18 (b) Suits to restrain, prevent or abate violation of this
19 act or of any watershed storm water plan, regulations or
20 ordinances adopted hereunder, may be instituted in equity or at
21 law by the department, any affected county or municipality, or
22 any aggrieved person. Such proceedings may be prosecuted in the
23 Commonwealth Court, or in the court of common pleas of the
24 county where the activity has taken place, the condition exists,
25 or the public affected, and to that end jurisdiction is hereby
26 conferred in law and equity upon such courts. Except in cases of
27 emergency where, in the opinion of the court, the circumstances
28 of the case require immediate abatement of the unlawful conduct,
29 the court may, in its decree, fix a reasonable time during which
30 the person responsible for the unlawful conduct shall correct or

1 abate the same. The expense of such proceedings shall be
2 recoverable from the violator in such manner as may now or
3 hereafter be provided by law.

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

8 Section 16. Preservation of existing rights and remedies.

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

14 (b) It is hereby declared to be the purpose of this act to
15 provide additional and cumulative remedies to abate nuisances.
16 Section 17. Grants and reimbursements to counties.

17 (a) The Department of Environmental Resources is authorized
18 to administer grants to counties to assist or reimburse them for
19 costs in preparing official storm water management plans
20 required by this act. Grants and reimbursements shall be made
21 from and to the extent of funds appropriated by the General
22 Assembly for such purposes, and shall be made in accordance to
23 rules and regulations adopted by the Environmental Quality
24 Board.

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

28 (2) For the purposes of this section, such State grants
29 shall be in addition to grants for similar purposes made to
30 any county by the Federal Government: Provided, That the

1 grants authorized by this section shall be limited such that
2 the total of all State and Federal grants does not exceed 50%
3 of the allowable costs incurred by the county.

4 (b) Nothing in this section shall be construed to impair or
5 limit application of this act to any municipality or person, or
6 to relieve any municipality or person of duties imposed under
7 this act.

8 (c) If, in any fiscal year, appropriations are insufficient
9 to cover the costs or grants and reimbursement to all counties
10 eligible for such grants and reimbursements in that fiscal year,
11 the Department of Environmental Resources shall report such fact
12 to the General Assembly and shall request appropriation of funds
13 necessary to provide the grants authorized in this section. If
14 such a deficiency appropriation is not enacted, any county which
15 has not received the full amount of the grant for which it is
16 eligible under this section shall be as a first priority
17 reimbursed from appropriations made in the next successive
18 fiscal year.

19 Section 18. Appropriations.

20 The sum of \$500,000, or as much thereof as may be necessary,
21 is hereby appropriated for the fiscal period beginning July 1,
22 1978, and ending June 30, 1979, to the Department of
23 Environmental Resources for the purposes of administrative and
24 general expenses in implementing the provisions of this act.

25 Section 19. Repealer and savings clause.

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

28 (b) The provisions of this act shall not affect any suit or
29 prosecution pending or to be instituted to enforce any right or
30 penalty or punish any offense under the authority of any act of

- 1 Assembly or part thereof repealed by this act.
- 2 Section 20. Effective date.
- 3 This act shall take effect immediately.