

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1783 Session of  
1989

INTRODUCED BY SERAFINI, TIGUE, BELARDI, HASAY, CAWLEY, BLAUM,  
JAROLIN AND STABACK, JUNE 28, 1989

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JUNE 28, 1989

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania  
2 Consolidated Statutes, providing incentives for water  
3 utilities to preserve watershed lands.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 102 of Title 66 of the Pennsylvania  
7 Consolidated Statutes is amended by adding a definition to read:

8 § 102. Definitions.

9 Subject to additional definitions contained in subsequent  
10 provisions of this part which are applicable to specific  
11 provisions of this part, the following words and phrases when  
12 used in this part shall have, unless the context clearly  
13 indicates otherwise, the meanings given to them in this section:

14 \* \* \*

15 "Watershed land." Real property located within the drainage  
16 area of any lake, stream, reservoir, river or other body of  
17 water, which body of water is used, directly or indirectly, to  
18 provide drinking water to the public. The term shall include any

1 interest in such real estate and any affiliated interest  
2 acquired by a public utility to protect its water distribution  
3 facilities.

4 Section 2. Title 66 is amended by adding sections to read:

5 § 529. Transfer of watershed land.

6 (a) Transfer of watershed land.--A public utility engaged in  
7 the business of diverting, developing, pumping, impounding,  
8 distributing or furnishing water to or for the public for  
9 compensation, that wishes to sell, lease or otherwise transfer  
10 an interest in watershed land shall first petition for and  
11 obtain the approval from the commission for the transaction. The  
12 commission shall prohibit a public utility from selling, leasing  
13 or otherwise transferring watershed land if the commission  
14 determines that the sale, lease or transfer could have an  
15 adverse effect on the safety, adequacy, efficiency or  
16 reasonableness of the utility's service; or increase the  
17 utility's cost of providing service to its customers.

18 (b) Requirements of utility petition.--Whenever a public  
19 utility files a petition seeking approval of the sale, lease or  
20 other transfer of watershed land, as set forth in subsection  
21 (a), the utility shall demonstrate that the sale, lease or  
22 transfer will not have an adverse effect on the safety,  
23 adequacy, efficiency or reasonableness of the utility's service;  
24 or increase the utility's cost of providing service to its  
25 customers.

26 (c) Procedure.--The commission shall hold hearings to make  
27 the determinations required by subsection (a) or (b). In a  
28 proceeding, the commission shall determine the reasonableness of  
29 the compensation received by the utility for the sale, lease or  
30 other transfer of watershed land. The affected public utility

1 shall have the burden of proof in any proceeding pursuant to  
2 this section.

3 (d) Environmental questions.--The commission shall certify  
4 to the Department of Environmental Resources questions regarding  
5 the applicability of environmental laws and regulations, when  
6 the question arises in a proceeding under this section, and  
7 shall incorporate the department's findings in its decision.

8 (e) Transactions with affiliates.--In any instance where the  
9 utility proposes to sell, lease or otherwise transfer watershed  
10 land to an affiliated interest of the utility, as defined in  
11 section 2101 (relating to definition of affiliated interest),  
12 the commission shall not approve the sale, lease or transfer  
13 unless the commission finds that the compensation received by  
14 the utility is at least equal to the fair market value of the  
15 watershed land being sold, leased or transferred.

16 (f) Regulations.--The commission shall adopt regulations to  
17 carry out its powers and duties under this section.

18 § 1327. Recognition of proceeds of sale of watershed land.

19 (a) Accounting required.--Whenever a public utility engaged  
20 in the business of diverting, developing, pumping, impounding,  
21 distributing or furnishing water to or for the public for  
22 compensation sells, leases or otherwise transfers an interest in  
23 watershed land, the utility shall keep a separate record of the  
24 gross proceeds of such sale, lease or other transfer; the  
25 undepreciated original cost of the property; the accrued  
26 depreciation on the property; and the expenses directly  
27 associated with the sale, lease or other transfer of the  
28 property.

29 (b) Duties of commission.--In any proceeding in which the  
30 commission determines a level of just and reasonable rates for a

1 public utility engaged in the business of diverting, developing,  
2 pumping, impounding, distributing or furnishing water to or for  
3 the public for compensation, the commission shall credit to  
4 ratepayers the net proceeds of the sale, lease or other transfer  
5 of watershed land by the utility.

6 (c) Definition.--As used in this section, the term "net  
7 proceeds" means:

8 (1) If the purchaser, lessee or transferee is an  
9 affiliated interest of the utility as defined in section 2101  
10 (relating to definition of affiliated interest), the greater  
11 of:

12 (i) the proceeds received from the transfer less the  
13 depreciated original cost of the property less the  
14 expenses directly associated with the transfer which are  
15 properly allocable to the utility; or

16 (ii) the fair market value of the watershed land  
17 transferred less the depreciated original cost of the  
18 property less the expenses directly associated with the  
19 transfer which are properly allocable to the utility.

20 (2) If the purchaser, lessee or transferee is not an  
21 affiliated interest of the utility as defined in section  
22 2101, the proceeds received from the transfer less the  
23 depreciated original cost of the property less the utility's  
24 expenses directly associated with the transfer.

25 Section 3. This act shall take effect in 60 days.