

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 979 Session of
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MARCH 6, 1995

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 6, 1995

AN ACT

1 Permitting counties to form storm water management districts for
2 the purpose of regulating storm water within designated
3 watershed boundaries; imposing duties and conferring powers
4 on county storm water districts, on municipalities and on
5 persons engaged in the development of land; and providing for
6 organization, for function, for enforcement and for
7 financing.

8 TABLE OF CONTENTS

- 9 Section 1. Short title.
- 10 Section 2. Legislative findings.
- 11 Section 3. Purpose.
- 12 Section 4. Definitions.
- 13 Section 5. County storm water districts.
- 14 Section 6. Powers and duties of district.
- 15 Section 7. Duties of municipalities.
- 16 Section 8. Duty of persons engaged in development of land.
- 17 Section 9. Entry upon lands for surveys and examinations.
- 18 Section 10. Duties of other agencies of the Commonwealth.
- 19 Section 11. Bond authorization; provisions.

1 Section 12. Remedies of bondholders.

2 Section 13. Enforcement.

3 Section 14. Preservation of existing rights and remedies.

4 Section 15. Effective date.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the County Storm
9 Water District Act.

10 Section 2. Legislative findings.

11 The General Assembly finds that:

12 (1) There are several adverse consequences of
13 uncontrolled runoff of storm water, including increased flood
14 stages in streams, reduced groundwater recharge, erosion and
15 sedimentation problems and decreased stream quality.

16 (2) A storm water district and comprehensive storm water
17 management, planning, implementation and enforcement are
18 critical to protect the public health and safety of the
19 people of this Commonwealth.

20 Section 3. Purpose.

21 The purpose of this act is to:

22 (1) Allow counties to create a district for any of the
23 following purposes:

24 (i) Preventing floods.

25 (ii) Controlling the quantity, direction and
26 velocity of storm water runoff.

27 (iii) Maintaining the watershed conditions in a
28 sound hydrological manner.

29 (2) Encourage the regional regulation and management of
30 storm water within designated watershed boundaries to

1 preserve and protect areas affected by natural storm water
2 runoff and to ensure consistent implementation of the
3 approved storm water management plan within a watershed.

4 Section 4. Definitions.

5 The following words and phrases when used in this act shall
6 have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Authority." A body politic and corporate, created pursuant
9 to the act of May 2, 1945 (P.L.382, No.164), known as the
10 Municipality Authorities Act of 1945.

11 "Bonds." The notes, bonds and other evidence of indebtedness
12 or obligations which each district is authorized to issue
13 pursuant to section 11.

14 "Department." The Department of Environmental Resources of
15 the Commonwealth.

16 "District." One or more watersheds, as designated by the
17 Department of Environmental Resources, organized under this act
18 within a county for the purposes designated in section 3. The
19 district may include areas outside the county with the consent
20 of the boards of commissioners of the interested counties.

21 "Municipality." A city, borough, town, township, county or
22 county district, or other governmental unit when acting as an
23 agent thereof, or any combination thereof acting jointly.

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

26 "User." Any person who resides, owns property or alters the
27 land use within the boundaries of the district.

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

30 "Watershed storm water plan." A plan for storm water

1 management adopted by a county in accordance with the act of
2 October 4, 1978 (P.L.864, No.167), known as the Storm Water
3 Management Act.

4 Section 5. County storm water districts.

5 (a) Establishment.--The board of commissioners of a county
6 may, by resolution, establish a county storm water district or
7 districts. Upon approval by the department of a storm water
8 management plan for a watershed located, in whole or in part,
9 within a county, pursuant to the act of October 4, 1978
10 (P.L.864, No.167), known as the Storm Water Management Act, that
11 entire watershed shall become a member of the district.

12 (b) Boundaries.--The district boundaries shall be uniform
13 with those watershed boundaries designated by the department.

14 (c) Board of directors.--The district shall have a board of
15 directors composed of three members appointed by the board of
16 commissioners and one member chosen by the governing board of
17 each municipality within the watershed. These members shall
18 serve terms of three years.

19 (d) Executive committee of board.--There shall be seven
20 members of the executive committee of the board. These members
21 shall serve nonconsecutive terms of two years and shall have the
22 duty of carrying out day-to-day functions of the district. The
23 board of commissioners shall appoint no less than one member but
24 no more than three members to the executive committee. The board
25 of directors of the district shall elect the remaining members
26 of the executive committee.

27 (e) Public hearings.--Prior to organization of a district,
28 public hearings shall be scheduled for the purpose of
29 determining whether the purpose of this act would be promoted by
30 creation of a district. Any resident or owner of real property

1 in a proposed district who wishes to object to the organization
2 and incorporation of such district shall, on or before the date
3 of the hearing, file his objections to the organization and
4 incorporation of such district with the county commissioners.

5 Section 6. Powers and duties of district.

6 (a) Powers and duties.--A county storm water district shall
7 have the power and duty to:

8 (1) Fix, alter, charge and collect rates and other
9 charges in the area served by its facilities at reasonable
10 and uniform rates as determined exclusively by the district.
11 With regard to the management of storm water, no additional
12 fees, charges or rates may be levied on the review or
13 approval of a plan of subdivision or land development as
14 defined in the act of July 31, 1968 (P.L.805, No.247), known
15 as the Pennsylvania Municipalities Planning Code. Charges
16 made for the purpose of providing for the payment of
17 administrative expenses and general maintenance shall be
18 calculated at a uniform rate based on the level of service
19 required by the user, taking into consideration the
20 characteristics of the property, including, but not limited
21 to, the average values of slope, size, soils and percent of
22 impervious surface. Any delinquent fees or charges shall be
23 collected by the district in accordance with the act of May
24 16, 1923 (P.L.207, No.153), referred to as the Municipal
25 Claim and Tax Lien Law. Any person questioning the
26 reasonableness or uniformity of any rate fixed by the
27 district or the adequacy, safety and reasonableness of the
28 district's services, including extensions thereof, shall
29 first raise such objections with the executive committee of
30 the board and, if necessary, with the full board. After

1 exhausting these administrative remedies, such persons may
2 bring suit against the district in the court of common pleas
3 of the county wherein the project is located, or, if the
4 project is located in more than one county, in the court of
5 common pleas of the county wherein the principal office of
6 the project is located. The court of common pleas shall have
7 exclusive jurisdiction to determine all such questions
8 involving rates or service.

9 (2) Authorize expenses for administrative purposes.

10 (3) Improve, repair, maintain and operate the facilities
11 and properties.

12 (4) Pay the principal and interest on its obligations.

13 (5) Fulfill the terms and provisions of any agreements
14 made with the purchasers or holders of any such obligations,
15 with the incorporating municipality, with municipalities
16 which are members of the district or with any municipality
17 served or to be served by the district.

18 (6) Determine exclusively the services and improvements
19 required to provide adequate, safe and reasonable service,
20 including extensions thereof in the areas served.

21 (7) Make expenditures.

22 (8) Borrow money, make and issue negotiable notes,
23 bonds, refunding bonds and other evidences of indebtedness or
24 bonds of the district, the bonds to have a maturity date not
25 longer than 40 years from the date of issue.

26 (9) Secure payment of the bonds or any part thereof by
27 pledge or deed of trust of all or any of its revenues and
28 receipts, and to make such agreements with the purchasers or
29 holders of such bonds or with others in connection with any
30 such bonds, whether issued or to be issued.

1 (10) Borrow money and issue such notes, bonds and other
2 indebtedness and obligations jointly with any authority or
3 any public authority of any adjoining state, as the district
4 shall deem advisable and, in general, to provide for the
5 security for the bonds and the rights of the holders thereof
6 and in respect to any project constructed and operated under
7 agreement with any such authority. Any district may enter
8 into any deed of trust, indenture or other agreement with any
9 bank or trust company or other person or persons in the
10 United States having power to enter into the same, including
11 any Federal agency, as security for such bonds, and may
12 assign and pledge all or any of the revenue of receipts of
13 the district thereunder. Such deed of trust, indenture or
14 agreement may contain such provisions as may be customary in
15 such instruments or as the district may authorize, including,
16 but not limited to, the following:

17 (i) The construction, improvement, operation,
18 maintenance and repair of any project and the duties of
19 the district with reference thereto.

20 (ii) The application of funds and the safeguarding
21 of funds on hand or on deposit.

22 (iii) The rights and remedies of said trustee and
23 the holder of the bonds, which may include restrictions
24 upon the individual right of action of such bondholders.

25 (iv) The terms and provisions of the bonds or the
26 resolutions authorizing the issuance of the same.

27 (11) Use any available Federal or State funds, and any
28 other funds, and set up accounts as are necessary to
29 implement the provisions of this act.

30 (12) Implement the approved storm water management plan

1 for any watershed. These powers may include, but are not
2 limited to:

3 (i) Developing engineering standards for the
4 implementation of the approved storm water management
5 plan to be uniformly applied to all watersheds.

6 (ii) Planning for capital facilities, including the
7 development of maintenance schedules.

8 (iii) Reviewing and approving the location, design
9 and construction within the watershed of storm water
10 management systems, obstructions, flood control projects,
11 subdivisions and major land developments, highways and
12 transportation facilities, facilities for the provision
13 of public utility services and facilities owned and
14 financed, in whole or in part, by funds from the
15 Commonwealth, to assure their consistency with the
16 watershed storm water management plan. The review and
17 approval of subdivisions and major land developments
18 shall be conducted in strict accordance with the
19 requirements of the Pennsylvania Municipalities Planning
20 Code pertaining to plan submission requirements, timing
21 requirements, public hearings, bonding and inspections.
22 The district shall review and take action on such
23 submissions within 30 days of receipt of application.
24 Required storm water facilities shall be accepted for
25 maintenance by the municipality or district upon
26 satisfactory completion of the facilities. Within the
27 parameters of the act of October 4, 1978 (P.L.864,
28 No.167), known as the Storm Water Management Act, the
29 lack of an acceptance agreement shall relieve the
30 developer of any obligation to install required storm

1 water improvements.

2 (iv) Inspecting storm water facilities for adherence
3 to plans and construction and maintenance standards.

4 (v) Providing for routine maintenance.

5 (13) Construct regional facilities.

6 (14) Issue permits to regulate the storm water flow into
7 its regional facilities and enforce the permits.

8 (15) Cooperate with emergency response and relief
9 agencies.

10 (16) Make contracts of every name and nature and execute
11 all instruments necessary or convenient for the carrying out
12 of its business.

13 (17) Provide for public comment on any plan involving
14 the construction of capital facilities.

15 (18) Maintain watershed conditions in a sound
16 hydrological manner.

17 (19) Conduct management practices to ensure the
18 satisfactory performance of the duties of the district,
19 including, but not limited to, an annual audit and
20 engineering review, necessary and proper insurance coverage
21 and an annual report for the citizens. Public hearings shall
22 be scheduled annually to review the district's budget and
23 plan for the coming year.

24 (20) Prepare and implement actions to correct existing
25 storm water management problems as necessary under the
26 approved storm water management plan, according to sound
27 engineering practices and in the most cost-effective manner.

28 (21) Notify the department, as may be required by
29 statute, of activities undertaken by the district.

30 (22) Sign and seal, and return to the municipality

1 within 30 days, any alterations, land development or change
2 in land use plans, as referenced in section 11(a) of the
3 Storm Water Management Act, requiring the preparation or
4 submittal of site development plans to the municipality.

5 (b) Qualities of bonds.--The bonds shall have all the
6 qualities of negotiable instruments under the law merchant and
7 the negotiable instruments law of this Commonwealth.

8 (c) Benefits assessment.--For the purpose of making regional
9 storm water improvements, the district may levy benefit
10 assessments upon the properties within the district which, in
11 its judgment, are especially benefited thereby, whether they
12 abut such improvements or not, according to such rule as the
13 district adopts, subject to the right of appeal. Such
14 assessments may include a proportionate share of the cost of any
15 part of the storm water management system, including the cost of
16 preliminary studies and surveys, detailed working plans and
17 specifications, acquiring necessary land or property or any
18 interest therein, damage awards, construction costs, interest
19 charges during construction, legal or other fees, or any other
20 expense incidental to the completion of the work. In assessing
21 benefits and apportioning the amount to be raised thereby among
22 the properties benefited, the district may give consideration to
23 the area, to assessed real estate value, to present or permitted
24 use of the benefited properties and to any other relevant
25 factors. Revenue from the assessment of benefits shall be used
26 solely for the acquisition or construction of the regional storm
27 water improvements, provided that such benefits are for the
28 payment of principal of and interest on bonds or notes issued to
29 finance such acquisition or construction. No assessment shall be
30 made against any property in excess of the special benefit to

1 accrue to such property.

2 (d) Other requirements.--The powers and duties under this
3 section in no way relieve persons engaged in the alteration or
4 development of land of the responsibility to comply with the
5 requirements of municipal storm water ordinances, the approved
6 storm water management plan and the requirements of the Storm
7 Water Management Act.

8 Section 7. Duties of municipalities.

9 A municipality shall not approve any alteration, land
10 development or change in land use under section 11(a) of the act
11 of October 4, 1978 (P.L.864, No.167), known as the Storm Water
12 Management Act, requiring preparation or submittal of site
13 development plans to the municipality before the plan has been
14 signed and sealed by the district.

15 Section 8. Duty of persons engaged in development of land.

16 Any person who is engaged in the development of land and who
17 is proposing any alteration, land development or change in land
18 use plan under section 11(a) of the act of October 4, 1978
19 (P.L.864, No.167), known as the Storm Water Management Act, that
20 requires the preparation or submittal of site development plans
21 to the municipality shall submit the plans to the district
22 through the municipality. Safeguards presently afforded to such
23 persons under the act of July 31, 1968 (P.L.805, No.247), known
24 as the Pennsylvania Municipalities Planning Code, shall continue
25 to be available under the provisions of this act.

26 Section 9. Entry upon lands for surveys and examinations.

27 Designated representatives of the district may enter upon
28 lands within the district to make surveys and examinations to
29 accomplish the necessary purposes of the district or to have
30 access to the work.

1 Section 10. Duties of other agencies of the Commonwealth.

2 (a) Technical assistance.--Upon request of a county or
3 county storm water district, the Department of Environmental
4 Resources and the Department of Community Affairs shall provide
5 technical assistance as required for the purposes of this act.

6 (b) Delegation.--The department may delegate to the district
7 any powers that it may possess under the act of October 4, 1978
8 (P.L.864, No.167), known as the Storm Water Management Act, and
9 the act of November 26, 1978 (P.L.1375, No.325), known as the
10 Dam Safety and Encroachments Act, as it pertains to storm water
11 management.

12 (c) Performance reviews.--If the powers under subsection (b)
13 are delegated, the department shall conduct periodic performance
14 reviews of the district's activities.

15 (d) Department authority.--Nothing in this act shall be
16 construed to abrogate the authority of the department under any
17 of the environmental laws administered by the department.

18 Section 11. Bond authorization; provisions.

19 (a) Authorization.--The bonds of any district shall be
20 authorized by resolution of the board of directors and shall be
21 of the series, bear such date or dates, mature at such time or
22 times, not exceeding 40 years from their respective dates, and
23 bear interest at such rate or rates, as determined by the
24 executive advisory committee to be necessary to issue and sell
25 the authorized bonds. The bonds shall be all of the following:

26 (1) Payable semiannually.

27 (2) In denomination and form, either coupon or fully
28 registered without coupons.

29 (3) Carry registration, exchangeability and
30 interchangeability privileges.

1 (4) Subject to terms of redemption, not exceeding 150%
2 of the principal amount thereof.

3 (5) Entitled to priorities in the revenues of receipts
4 of the district as resolution or resolutions may provide.

5 (6) Signed by or bear the facsimile signature of such
6 officers as the district shall determine.

7 Coupon bonds shall include interest coupons bearing the
8 facsimile signature of the treasurer of the district, and all
9 bonds shall be authenticated by an authenticating agent, fiscal
10 agent or trustee, all as may be prescribed in the resolution or
11 resolutions. These bonds may be issued and delivered,
12 notwithstanding that one or more of the officers signing the
13 bonds, or the facsimile of whose signature shall be upon the
14 bonds or the coupons shall have ceased to be the officer or
15 officers at the time when the bonds are actually delivered.

16 (b) Provisions.--Any resolution or resolutions authorizing
17 any bonds may contain provisions which shall be part of the
18 contract with the holders thereof, as to the following:

19 (1) Pledging the full faith and credit of the district,
20 but not of the Commonwealth or any political subdivision
21 thereof, for such obligations or restricting the same to all
22 or any of the revenues of the district from all or any
23 projects or properties.

24 (2) The construction, improvement, operations,
25 extension, enlargement, maintenance and repair of the project
26 and the duties of the district with reference thereto.

27 (3) The terms and provisions of the bonds.

28 (4) Limitations on the purpose to which the proceeds of
29 the bonds then or thereafter to be issued or of any loan or
30 grant by the United States may be applied.

1 (5) The rate of tolls and other charges for use of the
2 facilities of or for the services rendered by the district.

3 (6) The setting aside of reserves or sinking funds and
4 the regulation and disposition thereof.

5 (7) Limitations in the issuance of additional bonds.

6 (8) The terms and provisions of any deed of trust or
7 indenture which secure the bonds or under which the same may
8 be issued.

9 (9) Any other or additional agreements with the holders
10 of the bonds.

11 Section 12. Remedies of bondholders.

12 (a) District default.--The rights and remedies herein
13 conferred upon or granted to the bondholders shall be in
14 addition to and not in limitation of any rights and remedies
15 lawfully granted to such bondholders by the resolution or
16 resolutions providing for the issuance of bonds or by any deed
17 of trust, indenture or other agreement under which the same may
18 be issued. In the event that the district shall default in the
19 payment of principal of or interest on any of the bonds after
20 the principal or interest shall become due, whether at maturity
21 or upon call for redemption, and such default shall continue for
22 a period of 30 days or, in the event that the district shall
23 fail or refuse to comply with the provisions of this act or
24 shall default in any agreement made with the holders of the
25 bonds, the holders of 25% in aggregate principal amount of the
26 bonds then outstanding, by instrument or instruments filed in
27 the office of the recorder of deeds of the county and proved or
28 acknowledged in the same manner as a deed to be recorded, may
29 appoint a trustee to represent the bondholders for the purpose
30 herein provided.

1 (b) Action.--The trustee under subsection (a) and any
2 trustee under any deed of trust, indenture or other agreement
3 may and, upon written request of the holders of 25% (or other
4 percentages as may be specified in any deed of trust, indenture
5 or other agreement) in principal amount of the bonds then
6 outstanding, shall, in his or its own name:

7 (1) By mandamus or other suit, action or proceeding at
8 law, or in equity, enforce all rights of the bondholder,
9 including the right to require the district to collect rate,
10 rentals and other charges that are adequate to carry out any
11 agreement as to, or pledge of, the revenues or receipts of
12 the district and require the district to carry out any other
13 agreements with or for the benefit of, the bondholders, and
14 to perform its and their duties under this act.

15 (2) Bring suit upon the bonds.

16 (3) By action or suit in equity, require the district to
17 account as if it were the trustee of an express trust for the
18 bondholders.

19 (4) By action or suit in equity, enjoin any acts or
20 things which may be unlawful or in violation of the rights of
21 the bondholders.

22 (5) By notice in writing to the district, declare all
23 bonds due and payable and, if all defaults shall be made
24 good, then, with the consent of the holders of 25% (or other
25 percentages as may be specified in any deed of trust,
26 indenture or other agreement) of the principal amount of the
27 bonds then outstanding, to annul such declaration and its
28 consequences.

29 (c) Jurisdiction; receiver.--The court of common pleas of
30 the county shall have jurisdiction of any suit, action or

1 proceedings by the trustee on behalf of the bondholders. The
2 trustee, when appointed or acting under a deed of trust,
3 indenture or other agreement, and whether or not all bonds have
4 been declared due and payable, shall be entitled as of right to
5 the appointment of a receiver, who may enter and take possession
6 of the facilities of the district or any part or parts thereof,
7 the revenues and receipts from which are or may be applicable to
8 the payment of the bonds so in default and may operate and
9 maintain the same and collect and receive all rentals and other
10 revenues thereafter arising therefrom in the same manner as the
11 district or the board might do, and shall deposit all such
12 moneys in a separate account and apply the same manner as the
13 court shall direct. In any suit, action or proceeding by the
14 trustee, the fees, attorney fees and expenses of the trustee,
15 and of the receiver, if any, and all costs and disbursements
16 allowed by the court shall be a first charge on any revenues or
17 receipts from which are or may be applicable to the payment of
18 the bonds so in default. The trustee shall, in addition to the
19 foregoing, have and possess all of the powers necessary or
20 appropriate for the exercise of any functions specifically set
21 forth herein or incident to the general representation of the
22 bondholders in the enforcement and protection of their rights.

23 (d) Limitations.--Nothing in this section or any other
24 section of this act shall authorize any receiver appointed
25 pursuant to this act for the purpose of operating and
26 maintaining any facilities of the district to sell, assign,
27 mortgage or otherwise dispose of any of the assets of whatever
28 kind and character belonging to the district. It is the
29 intention of this act to limit the powers of such receiver to
30 the operation and maintenance of the facilities of the district

1 as the court shall direct, and no holder of bonds of the
2 district as the court shall direct and no holder of bonds of the
3 district nor any trustee shall have the right in any suit,
4 action or proceedings at law or in equity to compel a receiver
5 to sell, assign, mortgage or otherwise dispose of any assets of
6 whatever kind or character belonging to the district.

7 Section 13. Enforcement.

8 (a) Warnings.--The district may issue warnings against
9 private developers that violate any ordinance adopted by a
10 municipality.

11 (b) Notification to department.--The district shall notify
12 the department:

13 (1) Of land development that violates the approved storm
14 water management plan or local storm water ordinances.

15 (2) If a municipality violates section 11(b) of the act
16 of October 4, 1978 (P.L.864, No.167), known as the Storm
17 Water Management Act.

18 (3) If a municipality fails to enforce ordinances or
19 regulations adopted pursuant to section 11(b) of the Storm
20 Water Management Act.

21 (c) Petition to withhold payment.--The district may petition
22 the department to notify the State Treasurer to withhold payment
23 of all funds payable to a municipality pursuant to section 12 of
24 the Storm Water Management Act if the municipality has not
25 adopted or amended and implemented ordinances consistent with
26 the approved plan.

27 (d) Appeal.--A municipality may appeal to the department all
28 action taken by the district pursuant to this section.

29 Section 14. Preservation of existing rights and remedies.

30 The collection of any penalty under the provisions of this

1 act shall not be construed as estopping the Commonwealth or any
2 county, municipality, district or aggrieved person from
3 proceeding in courts of law or equity to abate nuisances under
4 existing law or to restrain, at law or in equity, a violation of
5 this act.

6 Section 15. Effective date.

7 This act shall take effect in 60 days.