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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 10

Session of  
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WAGNER, GERLACH, MURPHY, WENGER AND ORIE, NOVEMBER 20, 2002

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,  
NOVEMBER 20, 2002

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AN ACT

1 Providing for water resources planning and for administration  
2 and enforcement relating thereto.

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16 The General Assembly of the Commonwealth of Pennsylvania  
17 hereby enacts as follows:

18 CHAPTER 1

19 GENERAL PROVISIONS

20 Section 101. Short title.

21 This act shall be known and may be cited as the Water  
22 Resources Planning Act.

23 Section 102. Definitions.

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

27 "Basin." The watershed of one of the following major rivers  
28 or hydrologic systems: the Delaware River; the Great Lakes; the  
29 Ohio River; the Potomac River; and the Susquehanna River.

30 "Clean Streams Law." The act of June 22, 1937 (P.L.1987,

1 No.394), known as The Clean Streams Law.

2 "Compact Basin Commission." An interstate commission having  
3 jurisdiction with respect to the planning, development or  
4 regulation of water resources within a basin in Pennsylvania,  
5 created by interstate compact or Federal-interstate compact.

6 "Confidential information."

7 (1) Records, reports or information, or a particular  
8 portion thereof, that if made public would:

9 (i) divulge production or sales figures or methods,  
10 processes or production unique to a person;

11 (ii) otherwise tend to affect adversely the  
12 competitive position of a person by revealing trade  
13 secrets, including intellectual property rights; or

14 (iii) present threats to the safety and security of  
15 water supplies, including information concerning public  
16 water supply agency vulnerability assessments.

17 (2) The term does not include any of the following:

18 (i) Information identifying the general source of  
19 water used by a facility.

20 (ii) Information reporting the total amount of water  
21 withdrawn by a facility or the total amount of water used  
22 for consumptive uses or nonconsumptive uses by a  
23 facility.

24 "Conservation district." A county declared to be a  
25 conservation district by a resolution of its board of county  
26 commissioners.

27 "Consumptive use." The loss of water from a groundwater or  
28 surface water source through a manmade conveyance system,  
29 including such water that is purveyed through a public water  
30 supply system, due to transpiration by vegetation, incorporation

1 into products during their manufacture, evaporation, diversion  
2 out of a basin, or any other process to the extent that the  
3 water withdrawn is not returned to the waters of a basin. Deep  
4 well injection shall not be considered a return of waters to a  
5 basin.

6 "Critical area resource plan." A plan developed under  
7 section 302(d) for any watershed or watersheds within a critical  
8 water planning area.

9 "Critical water planning area." An area identified under  
10 section 302(a)(6) or 302(d)(1).

11 "Deep well injection." Injection of waste or wastewater  
12 substantially below aquifers containing fresh water.

13 "Department." The Department of Environmental Protection of  
14 the Commonwealth.

15 "Domestic use." The use of water for personal needs and  
16 ordinary household purposes.

17 "Environmental Hearing Board." The board established under  
18 the act of July 13, 1988 (P.L.530, No.94), known as the  
19 Environmental Hearing Board Act.

20 "Environmental Quality Board." The board established under  
21 section 1920-A of the act of April 9, 1929 (P.L.177, No.175),  
22 known as The Administrative Code of 1929.

23 "Groundwater." Water beneath the surface of the ground  
24 within a zone of saturation, whether or not flowing through  
25 known and definite channels or percolating through underground  
26 geologic formations, and regardless of whether the result of  
27 natural or artificial recharge. The term includes water  
28 contained in aquifers, artesian and nonartesian basins,  
29 underground watercourses and other bodies of water below the  
30 surface of the earth.

1 "Hydrologic unit." A unit of surface water or groundwaters,  
2 or both, which are interconnected and hydrologically related.  
3 The term includes a surface watershed or basin, groundwater  
4 basin, aquifer or aquifer system.

5 "Municipalities Planning Code." The act of July 31, 1968  
6 (P.L.805, No.247), known as the Pennsylvania Municipalities  
7 Planning Code.

8 "Municipality." Any county, city, borough, town, township or  
9 home rule municipality or any agency or authority created by any  
10 one or more of the foregoing.

11 "Nonconsumptive use." A use of water withdrawn from water  
12 resources of this Commonwealth in such manner that it is  
13 returned to its basin of origin. Where only a portion of the  
14 water withdrawn is returned to the basin of origin, that portion  
15 which is returned is a nonconsumptive use; and the portion of  
16 water withdrawn which is not returned to the basin of origin is  
17 a consumptive use.

18 "Nonwithdrawal use." The functions of or activities in water  
19 that is not withdrawn from a water resource, including, but not  
20 limited to, navigation, instream hydropower production,  
21 recreation, fish and wildlife habitat and the aquatic  
22 environment.

23 "Person." An individual, partnership, association, company,  
24 corporation, municipality, municipal authority, Federal or  
25 Commonwealth administrative agency or an entity which is  
26 recognized by law as the subject of rights and obligations. The  
27 term shall include the officers, employees and agents of any  
28 legal entity.

29 "Public water supply agency." A community water system as  
30 defined by the act of May 1, 1984 (P.L.206, No.43), known as the

1 Pennsylvania Safe Drinking Water Act, or any person subject to  
2 the act of June 24, 1939 (P.L.842, No.365), referred to as the  
3 Water Rights Law.

4 "Reasonable and beneficial use." The use of water for a  
5 useful and productive purpose, which is reasonable considering  
6 the rights of other users and consistent with the public  
7 interest, in a quantity and manner as is necessary for efficient  
8 utilization. The term includes withdrawal and nonwithdrawal  
9 uses.

10 "Region." One of the six regions established in section 303.

11 "Regional committee." A regional water resources committee.

12 "Safe Drinking Water Act." The act of May 1, 1984 (P.L.206,  
13 No.43), known as the Pennsylvania Safe Drinking Water Act.

14 "Safe yield." For purposes of the State water plan, the  
15 amount of water that can be withdrawn from a water resource over  
16 a period of time without impairing the long-term utility of a  
17 water resource such as dewatering of an aquifer; impairing the  
18 long-term water quality of a water resource; inducing a health  
19 threat; or causing irreparable or unmitigated impact upon  
20 reasonable and beneficial uses of the water resource. Safe yield  
21 of a particular water source is primarily to be determined based  
22 upon the predictable rate of natural and artificial  
23 replenishment of the water source over a reasonable period of  
24 time.

25 "Secretary." The Secretary of Environmental Protection of  
26 the Commonwealth.

27 "State water plan." The plan adopted under section 305.  
28 Prior to adoption of the State water plan in accordance with  
29 section 305, the term shall mean the State water plan previously  
30 adopted and published in accordance with section 1904-A of the

1 act of April 9, 1929 (P.L.177, No.175), known as The  
2 Administrative Code of 1929.

3 "Statewide committee." The Statewide Water Resources  
4 Committee.

5 "Surface water." Water on the surface of the earth,  
6 including water in a perennial or intermittent watercourse,  
7 lake, reservoir, pond, spring, wetland, estuary, swamp or marsh,  
8 or diffused surface water, whether such body of water is natural  
9 or artificial. The term does not include recirculated process  
10 water or wastewater stored in an off-stream impoundment, pond,  
11 tank or other device unless such water or wastewater is  
12 withdrawn and used by a person other than the person who  
13 initially withdrew the water from a water resource or obtained  
14 such water from a public water supply agency.

15 "Water availability evaluation." An assessment of available  
16 safe yield of water in an area, both groundwater and surface  
17 water, including natural recharge capability, and an estimate of  
18 the present reasonable and beneficial uses and of the reasonable  
19 and beneficial uses for 20 years ahead, by various categories,  
20 such as in-stream, agricultural, domestic, energy development  
21 and production, industrial and recreational uses.

22 "Water conservation practices and measures." Those practices  
23 and measures which are technically feasible and economically  
24 practicable and which are designed to accomplish any of the  
25 following:

- 26 (1) Reduce the demand for water.
- 27 (2) Improve efficiency in water use and reduce leakage,  
28 losses and waste of water.
- 29 (3) Improve reuse and recycling of water.
- 30 (4) Improve land management practices to conserve water

or to preserve or increase groundwater recharge.

"Watercourse." A distinct natural or artificial body of water flowing perennially or intermittently in a defined channel with bed and banks. The term includes a river, creek, stream, slough or canal.

"Water resource." Surface water or groundwater, within or on the boundaries of this Commonwealth.

"Water resources emergency." A drought or other water resource shortage declared by proclamation of the Governor that would result in a substantial and immediate shortage of available water supply in a region and that would be of sufficient severity and magnitude to warrant coordinated action to prevent or alleviate damage to property, human suffering, hardship or threats to health, safety, welfare and fish and wildlife habitat.

"Water Rights Law." The act of June 24, 1939 (P.L.842, No.365), referred to as the Water Rights Law.

"Watershed." The drainage area of a watercourse of a minimum drainage area determined in accordance with guidelines developed pursuant to section 305(a)(2).

"Withdrawal." The removal or taking of water from any water resource, whether or not returned to the water resource.

"Withdrawal use." Any use of water which is withdrawn, including, but not limited to, domestic, municipal, public, commercial, industrial, energy development and production and agricultural water supply. The term includes the use of water transferred through interconnections but shall not include transfer of water within a system operated by the same public water supply agency.

Section 103. Intergovernmental cooperation and coordination.



1       The Statewide committee, the regional committees and the  
2 department shall cooperate and coordinate with appropriate  
3 Compact Basin Commissions and Federal, interstate, State and  
4 political subdivisions, municipalities, public water supply  
5 agencies and other agencies for efficient planning for the  
6 maintenance and enhancement of the water resources of this  
7 Commonwealth.

8       Section 104. Administrative agreements with other agencies.

9       In consultation with the Statewide committee, the department  
10 shall, to the extent practicable, enter into administrative  
11 agreements with appropriate compact basin commissions and  
12 Federal, State, interstate, municipal and other agencies for the  
13 following purposes:

14           (1) To avoid unnecessary duplication of staff functions  
15 and facilitate coordinated review of projects and actions  
16 within the jurisdiction of such agencies.

17           (2) To provide a coordinated system for registration of  
18 significant water uses and the coordinated collection and  
19 maintenance of data regarding water resources.

20           (3) To provide for coordinated inspection, monitoring  
21 and enforcement of applicable statutes and regulations,  
22 provided that nothing in this section shall be deemed to  
23 confer enforcement authority on the Statewide committee.

24           (4) To accept delegations of authority from or obtain  
25 the services and assistance of a Compact Basin Commission or  
26 Federal or interstate agency concerning planning for the  
27 maintenance and enhancement of water resources. Nothing in  
28 this paragraph shall be construed to authorize a delegation  
29 to the Statewide committee or the department of any power to  
30 regulate, control or require permits for the withdrawal or

1 use of water.

2 (5) To ensure coordinated and effective responses to  
3 water resources emergencies in conjunction with the  
4 Pennsylvania Emergency Management Agency and the Compact  
5 Basin Commissions.

### 6 CHAPTER 3

#### 7 WATER RESOURCES PLANNING

##### 8 Section 301. State water plan.

9 (a) Preparation and adoption.--In accordance with this act  
10 and with ongoing consultation with the Statewide committee and  
11 the department, each regional committee shall guide the  
12 development of and recommend to the Statewide committee a  
13 regional plan component for review, approval and incorporation  
14 into the State water plan. The Statewide committee shall guide  
15 the development of, approve and recommend to the secretary  
16 approval and adoption of the State water plan. The department  
17 shall draft and develop the State water plan, including regional  
18 plan components. The State water plan shall be completed and  
19 adopted within five years of the effective date of this act.

20 (b) Matters considered.--The State water plan shall reflect  
21 the matters set forth in section 302. The level of detail within  
22 the State water plan and each regional plan may vary among  
23 watersheds and other hydrologic units. In consultation with the  
24 regional committee and the Statewide committee, the department  
25 shall establish with the approval of the Statewide committee  
26 priorities and guidelines for the level of detail appropriate  
27 for different areas, considering among other factors the current  
28 or projected future water demands in comparison to the safe  
29 yield of available water resources in the area.

30 (c) Limitation of authority.--Nothing contained in this act

1 shall be construed to authorize, expand or diminish the existing  
2 authority of the department, including the Environmental Quality  
3 Board, to regulate, control or require permits for the  
4 withdrawal or use of water.

5 Section 302. Plan contents.

6 (a) General rule.--The State water plan and regional plan  
7 shall include:

8 (1) An inventory of the surface water resources of each  
9 region of this Commonwealth, including an identification of  
10 the boundaries of significant watersheds and an estimate of  
11 the safe yield of such sources for withdrawal and  
12 nonwithdrawal uses during periods of normal conditions and  
13 drought.

14 (2) An inventory of the groundwater resources of each  
15 region of this Commonwealth, including an identification of  
16 aquifers and groundwater basins and an assessment of their  
17 safe yield, prime recharge areas, recharge capacity,  
18 withdrawal limits and relationship to stream base flows.

19 (3) An assessment and projection of existing and future  
20 nonwithdrawal use needs and the values of watercourses  
21 included within this Commonwealth or Federal wild and scenic  
22 river systems.

23 (4) An assessment and projection of existing and future  
24 withdrawal use demands.

25 (5) An identification of potential problems with water  
26 availability or conflicts among water uses and users.

27 (6) An identification of critical water planning areas  
28 comprising any significant hydrologic unit where existing or  
29 future demands exceed or threaten to exceed the safe yield of  
30 available water resources.

1           (7) An assessment of the current and future capabilities  
2 of public water supply agencies to provide an adequate  
3 quantity and quality of water to their service areas.

4           (8) An assessment of floodplain and storm water  
5 management problems.

6           (9) An assessment of navigation needs and the means for  
7 restoration, development and improvement of transportation by  
8 water.

9           (10) An assessment of the water resources required to  
10 serve areas with important or unique natural, scenic,  
11 environmental or recreational values of national, regional,  
12 local or Statewide significance, including national and State  
13 parks; designated wild, scenic and recreational rivers;  
14 national and State wildlife refuges; and the habitats of  
15 Federal and State endangered or threatened species.

16           (11) A process for identifying projects and practices  
17 that are being or have been implemented by water users that  
18 reduce the amount of water withdrawal or consumptive use,  
19 improve efficiency in water use, provide for reuse and  
20 recycling of water, increase the supply or storage of water  
21 or preserve or increase groundwater recharge and a  
22 recommended process for providing appropriate positive  
23 recognition of such projects or practices in actions,  
24 programs, policies, projects or management activities  
25 recommended under paragraph (16).

26           (12) An identification of practical alternatives for an  
27 adequate supply of water to satisfy existing and future  
28 reasonable and beneficial uses, including improved storage,  
29 groundwater recharge and surface water/groundwater  
30 conjunctive management programs.

1           (13) An assessment of both structural and nonstructural  
2 alternatives to address identified water availability  
3 problems, adverse impacts on water uses or conflicts between  
4 water users, including potential actions to develop  
5 additional or alternative supplies, conservation measures and  
6 management techniques.

7           (14) A review and evaluation of statutes, regulations,  
8 policies and institutional arrangements for the development,  
9 conservation, distribution and emergency management of water  
10 resources.

11           (15) A review and evaluation of water resources  
12 management alternatives and recommended programs, policies,  
13 institutional arrangements, projects and other provisions to  
14 meet the water resources needs of each region and of this  
15 Commonwealth.

16           (16) Proposed methods of implementing various  
17 recommended actions, programs, policies, projects or  
18 management activities.

19       (b) Considerations.--The State water plan and regional plans  
20 shall consider:

21           (1) The interconnections and relationships between  
22 groundwater and surface water as components of a single  
23 hydrologic resource.

24           (2) Regional water resources needs, objectives and  
25 priorities as identified and evaluated by the regional  
26 committee.

27           (3) Federal, State and interstate water resources  
28 policies, plans, objectives and priorities, including those  
29 identified in statutes, regulations, compacts, interstate  
30 agreements or comprehensive plans adopted by Federal and

1 State agencies and Compact Basin Commissions.

2 (4) The needs and priorities reflected in comprehensive  
3 plans and zoning ordinances where one of the following  
4 conditions is satisfied:

5 (i) A county adopts a comprehensive plan in  
6 accordance with section 301 or 302 of the Municipalities  
7 Planning Code and municipalities in the county have  
8 adopted comprehensive plans and zoning ordinances in  
9 accordance with sections 301, 303(d) and 603(j) of the  
10 Municipalities Planning Code.

11 (ii) Municipalities have adopted a county plan or a  
12 multimunicipal plan under Article XI of the  
13 Municipalities Planning Code and the participating  
14 municipalities have conformed their local plans and  
15 ordinances to the county or multimunicipal plan by  
16 implementing cooperative agreements and adopting  
17 appropriate resolutions and ordinances.

18 (iii) A county adopts a comprehensive plan in  
19 accordance with section 301 or 302 of the Municipalities  
20 Planning Code and either:

21 (A) the county has adopted and is administering,  
22 in lieu of municipalities in the county, a county  
23 comprehensive plan and county zoning ordinance in  
24 accordance with sections 301, 303(d) and 603(j) of  
25 the Municipalities Planning Code; or

26 (B) the county has adopted a county  
27 comprehensive plan in accordance with section 301 or  
28 302 of the Municipalities Planning Code which is in  
29 effect, in lieu of comprehensive plans adopted by  
30 municipalities in the county, and municipalities in

1 the county have adopted zoning ordinances generally  
2 consistent with such county comprehensive plan in  
3 accordance with sections 303(d) and 603(j) of the  
4 Municipalities Planning Code.

5 (5) The water quantity and quality necessary to support  
6 reasonable and beneficial uses.

7 (6) A balancing and encouragement of multiple uses of  
8 water resources, recognizing that all water resources of this  
9 Commonwealth are capable of serving multiple uses and human  
10 needs, including multiple uses of water resources for  
11 reasonable and beneficial uses.

12 (7) The distinctions between short-term and long-term  
13 conditions, impacts, needs and solutions to ensure  
14 appropriate and cost-effective responses to water resources  
15 issues.

16 (8) The benefits and costs and social and environmental  
17 impacts of alternative policies, programs, projects and  
18 actions.

19 (9) Application of the principle of equal and uniform  
20 treatment of all water users that are similarly situated and  
21 all users of related facilities, without regard to  
22 established political boundaries.

23 (c) Balancing of considerations.--In approving, recommending  
24 and adopting the State water plan, the Statewide committee and  
25 secretary shall provide serious and deliberative consideration  
26 to regional priorities, objectives and recommendations expressed  
27 by the regional committees, reconcile differences or conflicts  
28 among regional plans and assure that the regional plans and  
29 State water plan adequately consider and reflect Federal, State  
30 and Compact Basin Commission policies, plans, objectives and

1 priorities of national, Statewide or interstate importance.

2 (d) Designation of critical water planning areas and  
3 preparation and approval of critical area resource plans.--

4 (1) Critical water planning areas shall be identified as  
5 provided under section 302(a)(6). A regional committee may,  
6 in advance of the formal adoption of a regional plan or the  
7 State water plan and if justified by evidence developed in  
8 the planning process, recommend the designation of a critical  
9 water planning area. Upon such recommendation, the Statewide  
10 committee and secretary may designate the area for the  
11 development of a critical area resource plan for any  
12 watershed or watersheds within a critical water planning area  
13 pursuant to this subsection.

14 (2) In preparing a critical area resource plan for a  
15 critical water planning area, the regional committee shall  
16 establish a critical area advisory committee. This committee  
17 shall be composed of persons representative of appropriate  
18 governmental agencies, agricultural, public water supply,  
19 industrial and other water users in the area, conservation  
20 and environmental organizations, and other persons who have  
21 knowledge of, background in or an understanding of water  
22 resources planning and management. The critical area advisory  
23 committee shall evaluate policy, program and management  
24 alternatives and advise the regional committee and department  
25 throughout the critical water area planning process.

26 (3) For each critical water planning area identified and  
27 designated under this subsection or section 302(a)(6), the  
28 regional committee shall, in consultation with a critical  
29 area advisory committee, guide the development of and  
30 recommend to the Statewide committee and secretary and the



1 department shall draft a critical area resource plan. The  
2 regional committee may recommend to the department the  
3 engagement of county or regional agencies or expert  
4 consulting firms to assist in the process of preparing such a  
5 plan.

6 (4) A critical area resource plan shall be subject to  
7 review and adoption through the same process as a regional  
8 plan as provided in this section and section 305. Prior to  
9 final recommendation by the regional committee to the  
10 Statewide committee, a copy of the proposed critical area  
11 resource plan shall be submitted to the official planning  
12 agency and governing body of each municipality in the  
13 designated critical water planning area, the appropriate  
14 county planning agency and regional planning agencies for  
15 review and comment as to consistency with other plans and  
16 programs affecting the special area, and each such agency and  
17 governing body shall be provided 45 days to provide comments.

18 (5) The critical area resource plans shall include:

19 (i) An identification of existing and future  
20 reasonable and beneficial uses.

21 (ii) A water availability evaluation, including a  
22 quantitative assessment of the available water resources  
23 and their relationship to the existing and future  
24 reasonable and beneficial uses.

25 (iii) An identification of the quantity of water  
26 available for new or increased uses of water in the  
27 foreseeable future, and an identification of quantities  
28 required for future water uses associated with planned  
29 projects or developments.

30 (iv) An assessment of water quality issues that have

1 a direct and substantial effect on water resource  
2 availability.

3 (v) A consideration of storm water and floodplain  
4 management within the critical water planning area and  
5 their impacts on water quality and quantity.

6 (vi) Identification of existing and potential  
7 adverse impacts on uses or conflicts among users or areas  
8 of the critical water planning area and identification of  
9 alternatives for avoiding or resolving such conflicts.

10 (vii) An identification of practicable supply-side  
11 and demand-side alternatives for assuring an adequate  
12 supply of water to satisfy existing and future reasonable  
13 and beneficial uses.

14 (6) Critical area resource plans shall be construed as a  
15 component of the State water plan and may be implemented  
16 voluntarily.

17 Section 303. Regional committees.

18 (a) Creation.--There is created within the department a  
19 regional committee for each of the following regions in this  
20 Commonwealth:

21 (1) The watershed drainage area of the Delaware River  
22 and its tributaries.

23 (2) The watershed drainage area of the West Branch  
24 Susquehanna River subbasin and the upper Susquehanna, middle  
25 Susquehanna and Chemung subbasins and their tributaries.

26 (3) The watershed drainage area of the Juniata River and  
27 lower Susquehanna River and its tributaries below Sunbury,  
28 and Gunpowder, Northeast and Elk Creek Watersheds draining to  
29 the Chesapeake Bay.

30 (4) The watershed drainage area of the Ohio River and

1 its tributaries.

2 (5) The watershed drainage area of Lake Erie and the  
3 Genesee River.

4 (6) The watershed drainage area of the Potomac River and  
5 its tributaries.

6 Each regional committee shall be subject to the provisions  
7 applicable generally to boards and commissions identified in  
8 section 203 of the act of April 9, 1929 (P.L.177, No.175), known  
9 as The Administrative Code of 1929.

10 (b) Membership.--

11 (1) Each regional committee shall be composed of:

12 (i) Four members with a knowledge, background or  
13 understanding of water resources planning and management  
14 who are county conservation district or planning  
15 commission directors or, where a county conservation  
16 district does not cover a portion of a region, who are  
17 representatives of the governing body of the county or  
18 city of the first class, as appropriate, and shall  
19 represent a geographic cross-section of the region. At  
20 least two county conservation district directors shall be  
21 appointed to each regional committee. Such members shall  
22 be appointed by the Governor from recommendations made  
23 separately by the governing bodies of each county or city  
24 of the first class, which is in whole or in part within  
25 the region.

26 (ii) Seventeen members appointed by the Governor  
27 from recommendations made separately by Statewide and  
28 regional organizations representing such interests, whose  
29 residence or place of business is within the region and  
30 who meet the following criteria:

1           (A) Two members shall be representative of  
2           agriculture, one from production agriculture and one  
3           from horticulture.

4           (B) One member shall be an officer or employee  
5           of a public water supply agency providing residential  
6           service within the region.

7           (C) One member shall be an officer or employee  
8           of a public wastewater agency providing service  
9           within the region.

10          (D) Three members shall represent significant  
11          industrial and commercial enterprises, energy  
12          development and production interests.

13          (E) Three members shall represent environmental  
14          and conservation interests.

15          (F) Four members with education and experience  
16          in professions relating to water resources  
17          management, including engineering, hydrology,  
18          geology, planning, law and economics, one of whom  
19          shall be a registered professional geologist.

20          (G) Three members representing local governments  
21          other than counties.

22          The members appointed under this subparagraph shall  
23          represent a cross-section of the region, considering the  
24          distribution of population within each region.

25          (iii) One member, appointed by the secretary, who is  
26          a department employee. This member shall advise the  
27          regional committee without voting on any matter before  
28          the regional committee.

29          (iv) Where a Compact Basin Commission exists with  
30          jurisdiction over all or a portion of the region, a

1           representative of such Compact Basin Commission shall be  
2           invited to serve as an ex officio voting member of the  
3           regional committee.

4           (2) Members shall be appointed no later than 180 days  
5           after the effective date of this act.

6           (3) A member shall be appointed for a term of three  
7           years. Of the members first appointed by the Governor under  
8           paragraph (1)(i) and (ii), five members shall serve for terms  
9           of one year, five members shall serve for terms of two years  
10          and five members shall serve for terms of three years.

11          (4) Vacancies shall be filled for the remainder of an  
12          unexpired term in the same manner as original appointments. A  
13          member, upon expiration of the term, shall continue to hold  
14          office until a successor is appointed.

15          (5) A majority of the membership of a regional committee  
16          shall constitute a quorum for the transaction of regional  
17          committee business. Action may be taken on a matter before  
18          the regional committee by a majority vote of the full  
19          membership of the regional committee.

20          (6) Members of a regional committee shall serve without  
21          compensation but may be reimbursed from funds appropriated  
22          for such purposes for necessary and reasonable travel and  
23          other expenses incurred during the performance of their  
24          duties.

25          (7) A chairperson shall be elected annually by a  
26          majority vote of the full membership of the regional  
27          committee.

28          (c) Powers and duties.--A regional committee has the  
29          following powers and duties:

30          (1) Guide the development of and recommend to the

1 Statewide committee the regional plan component for review  
2 and incorporation into the State water plan.

3 (2) Consult with, advise and make recommendations to the  
4 department and the Statewide committee prior to and  
5 throughout the process of preparing the regional plan  
6 component of the State water plan and amendments to the  
7 regional plan component of the State water plan.

8 (3) Advise the Statewide committee and the department  
9 regarding the engagement and selection of consultants or  
10 experts to assist in the preparation of the regional  
11 component of the State water plan.

12 (4) Recommend to the Statewide committee and the  
13 department the identification of critical water planning  
14 areas.

15 (5) Utilize an open process, including public notice and  
16 at least one combined public meeting and hearing, to solicit  
17 comments from interested persons on water resources planning  
18 issues related to the preparation of the regional component  
19 of the State water plan.

20 (6) Meet as necessary to accomplish the purposes of this  
21 act.

22 (7) Adopt bylaws and procedures for conducting business.

23 Section 304. Statewide Water Resources Committee.

24 (a) Establishment.--There is established within the  
25 department the Statewide Water Resources Committee. The purpose  
26 of the committee is to coordinate the development of the State  
27 water plan, recommend policies and guidelines for and oversee  
28 the development of the State water plan, and in continuing  
29 consultation and collaboration with the regional committees and  
30 the department and with the full opportunity for public review

1 and comment, approve and recommend to the secretary approval and  
2 adoption of the State water plan. The Statewide committee shall  
3 be subject to the provisions applicable generally to boards and  
4 commissions identified in section 203 of the act of April 9,  
5 1929 (P.L.177, No.175), known as The Administrative Code of  
6 1929.

7 (b) Membership.--

8 (1) The Statewide committee shall be composed of members  
9 selected as set forth in this subsection.

10 (2) Eighteen members shall be appointed as follows:

11 (i) Six members shall be representatives of the  
12 regional committees, appointed as provided in this  
13 paragraph. The Majority Leader of the Senate and Majority  
14 Leader of the House of Representatives shall each appoint  
15 two members from among the members of the regional  
16 committees. The Minority Leader of the Senate and the  
17 Minority Leader of the House of Representatives shall  
18 each appoint one member from among the members of the  
19 regional committees. Each regional committee shall  
20 nominate from among their members individuals to be  
21 considered for appointment under this paragraph, and no  
22 more than one member from each regional committee shall  
23 be appointed under this paragraph.

24 (ii) The Governor shall appoint six members,  
25 representing a cross section of water user interests,  
26 including agriculture, conservation districts, industrial  
27 and commercial enterprises, mining, energy development  
28 and production and public water supply. The Governor  
29 shall seek suggestions and recommendations for Statewide  
30 committee membership from representative organizations.

1 (iii) The Governor shall appoint six members  
2 representing local government, environmental and  
3 conservation interests and professions relating to water  
4 resources management. The Governor shall seek suggestions  
5 and recommendations for Statewide committee membership  
6 from representative organizations.

7 (3) The Secretary of Environmental Protection, Secretary  
8 of Agriculture, Secretary of Conservation and Natural  
9 Resources, Executive Director of the Pennsylvania Fish and  
10 Boat Commission, Chairman of the Pennsylvania Public Utility  
11 Commission and Executive Director of the Pennsylvania  
12 Emergency Management Agency or their designees shall be ex  
13 officio voting members of the Statewide committee. The  
14 Secretary of Community and Economic Development and the  
15 Executive Director of the Governor's Center for Local  
16 Government Services or their designees and a representative  
17 of each Compact Basin Commission shall be invited to serve as  
18 ex officio nonvoting members of the Statewide committee.

19 (4) Members shall be appointed no later than 180 days  
20 after the effective date of this act.

21 (5) A member shall be appointed for a term of four  
22 years. Of the initial members appointed by the Governor:

23 (i) Six members shall serve initial terms of two  
24 years.

25 (ii) Six members shall serve initial terms of four  
26 years.

27 (iii) After such initial terms, individuals  
28 appointed by the Governor shall serve for a term of four  
29 years.

30 (6) Members must, as a result of educational background,



1 training or experience, have an understanding of water  
2 resources planning and management issues.

3 (7) The chairperson of the Statewide committee shall be  
4 elected by a majority vote of the full membership of the  
5 committee.

6 (8) Vacancies shall be filled for the remainder of an  
7 unexpired term in the same manner as original appointments. A  
8 member, upon expiration of the term, shall continue to hold  
9 office until a successor is appointed.

10 (9) A majority of the membership of the Statewide  
11 committee shall constitute a quorum for the transaction of  
12 business. Action may be taken on a matter before the  
13 committee by a majority vote of the full membership of the  
14 committee.

15 (10) Members of the Statewide committee shall serve  
16 without compensation but may be reimbursed from funds  
17 appropriated for such purposes for necessary and reasonable  
18 travel and other expenses incurred during the performance of  
19 their duties.

20 (c) Powers and duties.--The Statewide committee shall:

21 (1) Recommend to the secretary the approval and adoption  
22 of the State water plan, including regional plan components,  
23 following consultation with the regional committees, the  
24 department, Compact Basin Commission and other appropriate  
25 agencies and after the public comment and hearing process  
26 specified in section 305(b).

27 (2) Assist the department, in cooperation with regional  
28 committees, with the development of a public participation  
29 process to encourage the input from persons interested in  
30 water resources issues throughout the process of developing

1 and formulating regional plan components and the State water  
2 plan.

3 (3) Recommend approval by the secretary of policies and  
4 guidelines for the preparation and development of regional  
5 plans and the State water plan, in order to assure  
6 consistency in the methods used to carry out the assessments  
7 and inventories required under section 302.

8 (4) Review and comment upon regulations and policies  
9 proposed by the department under this act. In furtherance of  
10 this responsibility, the Statewide committee shall be given a  
11 reasonable opportunity to review and comment on regulations  
12 promulgated under this act affecting water resources prior to  
13 the submission to the Environmental Quality Board for both  
14 initial and final consideration. The written report of the  
15 Statewide committee shall be presented to the Environmental  
16 Quality Board with any regulatory proposal under this act.  
17 The chairperson of the Statewide committee shall be invited  
18 to participate in the presentation of all regulations  
19 promulgated under this act affecting water resources before  
20 the Environmental Quality Board.

21 (5) Carry out the duties and responsibilities assigned  
22 to the Statewide committee under this act or other applicable  
23 statutes.

24 Section 305. Development, adoption, amendment and periodic  
25 review of State water plan.

26 (a) Preparation of State water plan.--

27 (1) A State water plan shall be developed and adopted in  
28 accordance with this section within five years of the  
29 effective date of this act. After the initial adoption of a  
30 State water plan, the plan shall be amended and updated every

1 five years.

2 (2) The department, in consultation with the Statewide  
3 committee, shall develop policies and guidelines for:

4 (i) Preparing or amending the regional plan  
5 components and the State water plan.

6 (ii) Ensuring public participation in the  
7 development or amendment of the State water plan.

8 (iii) Identifying critical water planning areas.

9 (iv) Developing critical area resources plans.

10 Policies and guidelines shall be adopted only upon approval  
11 by both the Statewide committee and the secretary.

12 (3) All meetings, hearings and public review under this  
13 act shall be in accordance with the provisions of 65 Pa.C.S.  
14 Ch. 7 (relating to open meetings) and any regulations  
15 promulgated thereunder.

16 (b) Development of the State water plan.--

17 (1) Each regional committee shall:

18 (i) Hold at least one combined public meeting and  
19 hearing within its region to solicit input on water  
20 resources management and water resources planning within  
21 the region.

22 (ii) Make recommendations to the department and the  
23 Statewide committee on the development or amendment of  
24 the State water plan.

25 (iii) Make recommendations on the identification of  
26 critical water planning areas within the region.

27 (2) Based upon the recommendations and guidance of the  
28 regional committees and consistent with the policies and  
29 guidelines established under section 305(a)(2), the  
30 department, in consultation with the Statewide committee,

1 shall prepare drafts of the initial regional plan components  
2 to be used in the development or amendment of the State water  
3 plan. The department may also utilize other available  
4 resources to assist with the preparation of the drafts.

5 (3) The department, in conjunction with the Statewide  
6 committee and the regional committee, shall hold at least one  
7 combined public meeting and hearing in each region to solicit  
8 input on the drafts of the initial regional plan components  
9 to be used in the development or amendment of the State water  
10 plan.

11 (4) Following public participation and the combined  
12 public meeting and hearing required under paragraph (3), each  
13 regional committee shall select, by a majority vote, the  
14 planning alternatives and provisions to be recommended as  
15 part of the regional plan component of the State water plan.  
16 Each regional committee shall recommend, by a majority vote,  
17 the regional plan component to the Statewide committee. Each  
18 regional committee shall provide to another regional  
19 committee any proposed regional plan component recommendation  
20 that may affect any other region for review and comment prior  
21 to recommendation of the regional plan component to the  
22 Statewide committee.

23 (5) With consideration of the regional plan components  
24 developed under paragraphs (1) through (4), and consistent  
25 with the policies and guidelines established under section  
26 305(a)(2), the department, in ongoing consultation with the  
27 Statewide committee, shall prepare a draft of the State water  
28 plan or amendments to the State water plan. The department,  
29 in conjunction with the Statewide committee, shall make the  
30 draft of the State water plan available for public review to

1 solicit input on the draft of the State water plan or  
2 amendments to the State water plan.

3 (c) Adoption of regional plan components and State water  
4 plan.--Regional plans and the State water plan shall be  
5 recommended and adopted in accordance with the following  
6 procedures:

7 (1) Each regional committee shall, by a majority vote,  
8 recommend the regional plan components to the Statewide  
9 committee as provided in subsection (b).

10 (2) If a regional committee fails to comply with the  
11 obligations set forth in this act, the Statewide committee  
12 shall, after providing 90 days written notice to the regional  
13 committee, propose, approve and recommend the regional plan  
14 components for that region.

15 (3) The Statewide committee or the secretary may direct  
16 modification of a new or previously approved regional plan,  
17 in whole or in part, upon finding one of the following:

18 (i) Recommended planning or management alternatives  
19 or provisions of two or more regional plans are  
20 inconsistent, or two or more regional planning committees  
21 are unable to agree on an alternative or provision  
22 affecting their respective regions.

23 (ii) A recommended planning or management  
24 alternative or provision is inconsistent with:

25 (A) this act;

26 (B) Federal or State statutes, regulations or  
27 officially adopted policies or plans; or

28 (C) compacts or other interstate agreements and  
29 plans.

30 (iii) A regional plan component is inconsistent with

1 or conflicts with the provisions or objectives of the  
2 overall State water plan.

3 (iv) The recommended regional plan component fails  
4 to conform to section 302 or the requirements established  
5 by policies adopted pursuant to section 305(a)(2).

6 (4) Following consultation with the regional committees,  
7 the Statewide committee shall approve and recommend to the  
8 secretary approval and adoption of regional plan components  
9 and the State water plan, subject to the following  
10 procedures:

11 (i) Within 90 days of submission of a regional plan,  
12 the secretary shall in writing either approve the  
13 regional plan or disapprove the regional plan if the  
14 secretary finds that the regional plan fails to meet any  
15 of the criteria set forth in section 305(c)(3)(i) through  
16 (iv).

17 (ii) Within 90 days of submission of the State water  
18 plan, the secretary shall in writing either approve the  
19 State water plan or disapprove the plan if the secretary  
20 finds that the State water plan fails to conform to the  
21 requirements of section 302 or the policies adopted  
22 pursuant to section 305(a)(2).

23 (iii) Upon disapproval of a regional plan or State  
24 water plan, the secretary shall advise the Statewide  
25 committee and affected regional committee in writing of  
26 the reasons for such disapproval.

27 (iv) Upon receipt of any notice of disapproval, the  
28 Statewide committee, any affected regional committee and  
29 the department shall undertake expeditious and diligent  
30 efforts to confer and resolve the issues identified as

1 the reasons for disapproval. Within 90 days of receipt of  
2 any disapproval notice, the Statewide committee shall  
3 recommend a revised plan which addresses and resolves the  
4 issues.

5 (5) Final adoption of each regional plan component and  
6 the State water plan shall occur only upon the approval and  
7 recommendation by the Statewide committee to the secretary  
8 for the approval and adoption of the State water plan and  
9 subsequent adoption by the secretary.

10 (6) Upon adoption of the State water plan, the  
11 department shall publish notice of the adoption or amendment  
12 of the State water plan in the Pennsylvania Bulletin and on  
13 the department's World Wide Web site.

14 (d) Periodic review.--The Statewide committee and the  
15 department shall, at least once every five years and after  
16 consultation with the regional committees, review the State  
17 water plan to determine whether it reflects the objectives,  
18 policies and purposes of this act. This determination, including  
19 recommendations for revisions to regional plans, shall be set  
20 forth in writing.

21 (e) Plan amendment.--The State water plan may be amended in  
22 accordance with the requirements of this section.

23 Section 306. Use of plan.

24 (a) General use of plan.--The State water plan is intended  
25 to serve as a policy and guidance document, providing  
26 information, objectives, priorities and recommendations to be  
27 considered and weighed in a broad range of State, local and  
28 private decisions. The State water plan is not intended to  
29 constitute or contain legally binding regulations, prohibitions  
30 or prescriptions.

1 (b) Specific uses of plan.--Among other uses, it is intended  
2 that the State water plan will be used to:

3 (1) Identify and prioritize water resource and water  
4 supply development projects to be carried out by private  
5 organizations or government agencies.

6 (2) Provide information to public and private decision  
7 makers regarding water availability to help guide efficient  
8 investment and economic development.

9 (3) Identify opportunities for improving operation of  
10 this Commonwealth's existing water resources infrastructure.

11 (4) Guide the development and implementation of policies  
12 and programs by State agencies that will reduce the risk of  
13 flooding, water shortages from drought and conflicts between  
14 water users or uses.

15 (5) Guide policies on activities that directly and  
16 significantly affect the quantity and quality of water  
17 available with the objective of balancing and encouraging  
18 multiple uses of water resources.

19 (6) Educate public officials and the public at large  
20 regarding the sources and uses of water in this Commonwealth.

21 Section 307. Statewide data system.

22 (a) General rule.--In cooperation with the Compact Basin  
23 Commissions and Federal, State and regional agencies with  
24 responsibilities relating to water resources management, the  
25 department shall establish and maintain a Statewide system to  
26 gather, process and distribute information on the availability,  
27 distribution, quality and use of water resources of this  
28 Commonwealth.

29 (b) Other commissions and agencies.--The department shall  
30 invite interested Compact Basin Commissions and Federal, State



1 and regional agencies with responsibilities relating to water  
2 resources management to join the Statewide data system and shall  
3 cooperate with any such agency choosing to join the system.

4 (c) Fee.--Information gathered in the Statewide data system,  
5 subject to protection provided to confidential business  
6 information under section 309, shall be made available to any  
7 person on payment of a reasonable fee, as established by the  
8 department with the advice of the Statewide committee, to cover  
9 the expenses of making such information available to that  
10 person.

11 Section 308. Water use registration and reporting.

12 (a) Interim registration program.--Pending the adoption of  
13 regulations for registration and reporting under subsection (b),  
14 each public water supply agency and each hydropower facility,  
15 irrespective of the amount of withdrawal, and each person whose  
16 total withdrawal or withdrawal use from one or more points of  
17 withdrawal within a watershed operated as a system either  
18 concurrently or sequentially exceeds an average rate of 10,000  
19 gallons a day in a 30-day period shall register with the  
20 department the source, location and amount of withdrawal or use  
21 or both. Registrations shall be submitted not later than 12  
22 months after the effective date of this act or 30 days following  
23 the initiation of any such withdrawal or use, whichever is  
24 later. Registrations shall be submitted on forms as prescribed  
25 by the department.

26 (b) General rule; requirements for registration and  
27 reporting.--In order to provide accurate information for water  
28 resources planning, the department in consultation with the  
29 Statewide committee shall recommend, and the Environmental  
30 Quality Board shall adopt, regulations establishing requirements

1 for the registration, periodic reporting and recordkeeping of  
2 withdrawals in accordance with the following provisions:

3 (1) Each public water supply agency and each hydropower  
4 facility, irrespective of the amount of withdrawal, and each  
5 person whose total withdrawal or withdrawal use from one or  
6 more points of withdrawal within a watershed operated as a  
7 system either concurrently or sequentially exceeds an average  
8 rate of 10,000 gallons a day in a 30-day period shall comply  
9 with recordkeeping and periodic reporting requirements  
10 established by regulation. Such regulations may require water  
11 users subject to the registration requirements of this  
12 section to monitor, maintain records and submit to the  
13 department periodic reports regarding the source, location  
14 and amount of withdrawals or uses or both from surface waters  
15 and groundwaters, including the amount of consumptive and  
16 nonconsumptive uses, the locations and amounts of any waters  
17 returned and discharged and the amounts of water transferred  
18 between public water supply agencies via interconnections.  
19 Such regulations shall not require submission of periodic  
20 reports more frequently than annually. Where alternative  
21 methods exist to obtain a reasonably accurate evaluation of  
22 withdrawals or withdrawal uses, consumptive or nonconsumptive  
23 uses and return flows, such regulations shall allow for use  
24 of the alternative methods to obtain a reasonable estimate or  
25 indirect calculation of such in lieu of direct metering or  
26 measurement. With respect to withdrawal uses, other than  
27 public water supply agency withdrawals and hydropower  
28 facilities, involving a withdrawal of less than 50,000  
29 gallons per day in a 30-day period, the regulations shall  
30 provide for the use of alternative methods to obtain a

1 reasonable estimate or indirect calculation of such in lieu  
2 of direct metering or measurement.

3 (2) The regulations may provide for the adjustment of or  
4 variations in registration, recordkeeping or periodic  
5 reporting requirements for identified classification of user  
6 or volume of withdrawal if such requirements are not  
7 necessary to obtain information required to adequately assess  
8 water uses, monitor demands and otherwise prepare accurate  
9 and complete regional and State water plans and, if  
10 applicable, critical area resource plans.

11 (3) The regulations shall include a process under which  
12 water users may document and register practices or projects  
13 that they have implemented to reduce water withdrawals or  
14 consumptive use, promote groundwater recharge or otherwise  
15 conserve or enhance water supplies for consideration and use  
16 in providing appropriate recognition and credit during the  
17 implementation of existing or future water supply programs.

18 (4) To avoid duplication of efforts, regulations  
19 implementing the periodic reporting requirements of this  
20 subsection shall provide that the requirements may be  
21 satisfied by the filing of discharge monitoring reports  
22 prepared under the Clean Streams Law, water supply reports  
23 prepared under the Safe Drinking Water Act, water withdrawal  
24 and use reports prepared and submitted pursuant to  
25 regulations adopted by the Delaware River Basin Commission  
26 and Susquehanna River Basin Commission, or other reports  
27 submitted under other applicable statutes and regulations, to  
28 the extent that the reports provide the required information.

29 (5) Nothing in this section shall be construed to  
30 authorize the department or the Environmental Quality Board

1 to require metering of homeowner wells.

2 (6) Where a registered withdrawal is terminated or is  
3 reduced to an amount which over a 12-month period is less  
4 than the 30-day average threshold amounts requiring  
5 registration, the person responsible for such withdrawal may  
6 file a written notice with the department of such termination  
7 and reduction. After filing such notice, the person shall be  
8 relieved of further obligations relating to period reporting  
9 under this section.

10 (7) Persons required to register and report water  
11 withdrawals under this section shall keep records required by  
12 regulation for a period of five years and make such records  
13 available for inspection by the department upon request.

14 (8) Registration of a withdrawal shall not be construed  
15 as a determination of a person's water rights or approval of  
16 a withdrawal or use by any agency of the Commonwealth or by a  
17 Compact Basin Commission.

18 (c) Confidentiality of information.--Information provided to  
19 the department under this section shall be subject to the  
20 provisions of section 309.

21 Section 309. Confidential information.

22 (a) General rule.--Except as provided in subsection (b),  
23 information required to be submitted to the department under  
24 this act shall be subject to the provisions of the act of June  
25 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know  
26 Law.

27 (b) Exception.--The department, the Statewide committee and  
28 any regional committee shall not disclose confidential  
29 information required to be submitted to the department under  
30 this act unless:

1           (1) the confidential information is contained in a  
2       report in which the identity of the submitting person has  
3       been removed and the confidential information is aggregated  
4       by hydrologic unit or region; or

5           (2) the confidential information is disclosed to  
6       employees, contractors, agents or authorized representatives  
7       of the department, including the State and regional planning  
8       committees for the purposes of this act.

9       (c) Confidential information submitted.--If a person submits  
10   confidential information under this act, the person must  
11   identify the information that is confidential information and  
12   provide a justification for its confidential nature. The  
13   department, Statewide committee or regional committees shall  
14   hold the confidential information in a file separate from the  
15   general records relating to the person.

16   Section 310. Water conservation.

17       (a) Technical assistance center.--The department shall  
18   establish and maintain a water resources technical assistance  
19   center to promote voluntary water conservation and to provide  
20   technical assistance on water resources uses issues, including  
21   methods for efficient water use, including reduction of  
22   unaccounted for water loss and the replenishment and  
23   conservation of water resources. The center shall:

24           (1) Establish a voluntary Statewide water conservation  
25       program for all water users.

26           (2) Establish guidelines for the development of  
27       voluntary water use reduction plans in critical water  
28       planning areas.

29           (3) Establish voluntary water use reduction goals for  
30       all water users.

(4) Identify water conservation principles, practices and technology to assist all water users in conserving water.

(5) Develop a water conservation educational program for households, industry and other water users.

(6) Establish a Governor's Water Conservation Award to recognize outstanding conservation of water.

(7) Develop a program to promote voluntary reduction of unaccounted for water loss.

(8) Identify principles, practices and technologies to encourage groundwater recharge.

(b) Grant approval.--When approving funding pursuant to the act of March 1, 1988 (P.L.82, No.16), known as the Pennsylvania Infrastructure Investment Authority Act, the Pennsylvania Infrastructure Investment Authority shall give special consideration to funding projects that:

(1) address unaccounted for water loss or that implement water conservation practices by a public water supply agency whose unaccounted for water loss rate exceeds 20%, provided that as a condition for such assistance, the applicant shall agree to attempt to recover the true cost of service from ratepayers and adopt and implement a water system management program that conforms to minimum standards established by the department, the Pennsylvania Public Utility Commission or any Compact Basin Commission for water metering, meter testing and replacement, leak detection, unaccounted for water tracking and reporting and conservation education; or

(2) provide for interconnection between water systems to improve reliability.

Section 311. Grants.

(a) Authorization.--The department is authorized to provide

1 grants for the following purposes:

2 (1) Reimbursement of up to 75% of the cost of preparing  
3 a voluntary water use reduction plan under section 310(a)(2).

4 (2) Water resources education, technical assistance and  
5 water conservation, including the promotion of voluntary  
6 reduction of unaccounted for water loss, under section  
7 310(a).

8 (b) Funding.--Grants shall be made from funds available for  
9 this purpose.

10 CHAPTER 5

11 ADMINISTRATION AND ENFORCEMENT

12 Section 501. Administration.

13 (a) Use of funds.--The department shall use fees collected  
14 from the use of the Statewide data system to defray the  
15 reasonable costs of administering sections 307 and 308.

16 (b) Public records and confidentiality of information.--  
17 Except as provided in section 309 or in another statute, reports  
18 and other information obtained by the Statewide committee, a  
19 regional committee or the department under this act shall be a  
20 matter of public record and shall be available for inspection  
21 and review at the offices of the department, the Statewide  
22 committee or the appropriate regional committee.

23 (c) Investigations and inspections.--To determine compliance  
24 with this act, the department is authorized, during reasonable  
25 hours and upon reasonable notice, to make such reasonable  
26 inspections, conduct such reasonable tests or sampling or  
27 examine books, papers and records related specifically to any  
28 withdrawal under investigation pursuant to section 308 as it  
29 deems necessary.

30 (d) Water Resources Fund.--Fines and penalties collected

1 under this act shall be paid into the State Treasury in a  
2 special fund known as the Water Resources Fund. This fund shall  
3 be administered by the department to carry out the purposes of  
4 this act.

5 (e) Use of other funds.--Money in the Clean Water Fund,  
6 established by the act of June 22, 1937 (P.L.1987, No.394),  
7 known as The Clean Streams Law, may be used by the department  
8 for purposes of this act.

9 Section 502. Public nuisance.

10 (a) General rule.--A violation of this act or an order or  
11 regulation under this act shall constitute a public nuisance.

12 (b) Applicability of other law.--Nothing in this act shall  
13 be construed as affecting the application of 18 Pa.C.S. § 5101  
14 (relating to obstructing administration of law or other  
15 governmental function).

16 Section 503. Enforcement orders.

17 (a) Issuance.--The department may issue orders necessary to  
18 aid in the enforcement of this act. An order may be issued if  
19 the department finds that a person is in violation of this act  
20 or of a regulation issued under this act. The department may, in  
21 its order, require compliance with terms and conditions  
22 necessary to effect the purposes of this act.

23 (b) Effective date.--An order issued under this section  
24 shall take effect upon notice unless the order specifies  
25 otherwise.

26 (c) Other remedies preserved.--The right of the department  
27 to issue an order under this section is in addition to any  
28 penalty which may be imposed or any other action taken under  
29 this act.

30 (d) Duty to comply.--It shall be the duty of any person to



1 proceed diligently to comply with any order issued by the  
2 department under this section. If such person fails to proceed  
3 diligently or fails to comply with the order within such time,  
4 if any, which may be specified in the order, the person shall be  
5 guilty of contempt and shall be punished by the court in an  
6 appropriate manner. For this purpose, application may be made by  
7 the department to the Commonwealth Court, which court is hereby  
8 granted jurisdiction.

9 Section 504. Civil remedies.

10 (a) Abatement of nuisances.--An activity or condition  
11 declared to be a public nuisance under section 502 shall be  
12 restrained or prevented in the manner provided by law or equity  
13 for abatement of public nuisances, and the reasonable expense  
14 thereof may be recovered from the violator.

15 (b) Civil remedies.--The department may bring an action in  
16 any court of competent jurisdiction to restrain and abate the  
17 violation of this act or any regulation issued under this act.  
18 Any other provision of law to the contrary notwithstanding, the  
19 courts of common pleas and Commonwealth Court shall have  
20 jurisdiction of such actions, and venue in such actions shall be  
21 set forth in the Pennsylvania Rules of Civil Procedure  
22 concerning actions in assumpsit.

23 (c) Civil penalties.--In addition to proceeding under any  
24 other remedy available under this act for the violation of any  
25 provision of this act, or any regulation or order issued under  
26 this act, the department may assess a civil penalty upon a  
27 person for such violation. The maximum civil penalty that may be  
28 assessed is \$1,000 per day for each violation. Each violation of  
29 any provision of this act and each violation for each separate  
30 day shall constitute a separate and distinct offense. The civil

1 penalty may be assessed, whether or not the violation was  
2 willful or negligent. In determining the amount of a civil  
3 penalty, the department shall consider the degree of willfulness  
4 and duration of the violation, savings resulting to the person  
5 as the result of the violation, the damage to water resources of  
6 this Commonwealth resulting from the violation and other  
7 relevant factors. When the department proposes to assess a civil  
8 penalty, it shall inform the person of the proposed amount of  
9 such penalty. The person charged with the civil penalty shall  
10 then have 30 days to pay the proposed penalty in full or, if the  
11 person wishes to contest either the amount of the penalty or the  
12 fact of the violation, the person shall within the 30-day period  
13 file an appeal of the action with the Environmental Hearing  
14 Board. Failure to appeal within the 30-day period shall result  
15 in a waiver of all legal rights to contest the violation and the  
16 amount of the civil penalty.

17 (d) Remedies to be concurrent.--The remedies prescribed in  
18 this act shall be deemed concurrent and the existence or  
19 exercise of any remedy shall not prevent the department from  
20 exercising any other remedy under this act, at law or in equity.  
21 Section 505. Preservation of rights and remedies.

22 (a) Other remedies.--The collection of a penalty under this  
23 act shall not be construed as estopping the Commonwealth, a  
24 municipality or an authorized agency from proceeding in courts  
25 of law or equity to abate public nuisances under existing law.

26 (b) Remedies additional and cumulative.--It is declared to  
27 be the purpose of this section to provide additional and  
28 cumulative remedies to protect the public interest in the water  
29 resources of this Commonwealth.

30 (c) Pending suits.--This act does not apply to suits

1 instituted prior to its effective date.

2 Section 506. Relation to other laws.

3 (a) Limitations upon department.--Nothing contained in this  
4 act shall be construed to authorize, diminish or expand the  
5 existing authority of the department, including the  
6 Environmental Quality Board, to regulate, control or require  
7 permits for the withdrawal or use of water. Further, nothing set  
8 forth in this act, any regulations adopted under this act or in  
9 the State water plan shall authorize the department to take any  
10 action to:

11 (1) Modify or impair any permits, agreements or other  
12 approvals issued under other State statutes or vested rights  
13 related to water withdrawals or uses.

14 (2) Interfere with or impose additional conditions upon  
15 the use or operation of any existing reservoir or water  
16 storage facility.

17 (3) Regulate or impose any conditions upon any activity  
18 or use not currently authorized under applicable State  
19 statutes and regulations.

20 (b) Limitations on water allocation authority.--The General  
21 Assembly reiterates the declarations of other statutes  
22 reflecting the need to manage water resources on a watershed  
23 basis without respect to political boundaries and the  
24 understanding that water management programs should be based  
25 upon an accurate and current State water plan. Accordingly, no  
26 political subdivision shall have any power to allocate water  
27 resources or to regulate the location, amount, timing, terms or  
28 conditions of any water withdrawal by any person.

29 (c) Limitations on municipalities.--Nothing in subsection  
30 (b) shall affect the power of any municipality to adopt and

1 enforce ordinances pursuant to 35 Pa.C.S. Pt. V (relating to  
2 emergency management services) or regulate the use of land  
3 pursuant to the act of July 31, 1968 (P.L.805, No.247), known as  
4 the Pennsylvania Municipalities Planning Code, or other laws.  
5 Further, each municipality shall retain and may exercise such  
6 authority as conferred by other statutes to adopt ordinances and  
7 regulations concerning:

8 (1) mandatory connection to and use of available public  
9 water supplies; and

10 (2) the prohibition or regulation of withdrawals from  
11 particular sources of water that may be contaminated in order  
12 to protect public health and safety from exposure to the  
13 contamination or avoid the induced migration of the  
14 contamination.

15 (d) Limitations relating to compacts.--Nothing in this act  
16 shall be construed to supersede or abrogate any provisions of  
17 the act of July 7, 1961 (P.L.518, No.268), known as the Delaware  
18 River Basin Compact, or the act of July 17, 1968 (P.L.368,  
19 No.181), referred to as the Susquehanna River Basin Compact Law,  
20 and this act shall be construed in pari materia with such  
21 compacts.

## 22 CHAPTER 7

### 23 MISCELLANEOUS PROVISIONS

24 Section 701. Repeal.

25 All acts and parts of acts are repealed insofar as they are  
26 inconsistent with this act.

27 Section 702. Effective date.

28 This act shall take effect in 90 days.