

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1230 Session of  
2002

INTRODUCED BY GERLACH, CONTI, TOMLINSON, WAGNER, ERICKSON,  
LEMMOND, MURPHY, MOWERY, KUKOVICH, HOLL, SCHWARTZ AND  
KASUNIC, JANUARY 23, 2002

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 23, 2002

AN ACT

1 Authorizing the establishment and administration of a Statewide  
2 program to promote water conservation and the efficient use  
3 of existing water resources; requiring a State Water Plan;  
4 imposing additional powers and duties on the Department of  
5 Environmental Protection, the Environmental Hearing Board and  
6 the Environmental Quality Board; transferring administration  
7 and enforcement of the Water Well Drillers License Act to the  
8 Department of Environmental Protection; and making repeals.

9 Section 1. Short title.

10 Section 2. Definitions.

11 Section 3. Powers and duties of department.

12 Section 4. Powers and duties of Environmental Quality Board.

13 Section 5. State Water Plan.

14 Section 6. Statewide Water Resources Advisory Committee.

15 Section 7. Registration, reporting and recordkeeping.

16 Section 8. Critical water planning areas.

17 Section 9. Voluntary water conservation.

18 Section 10. Grants.

19 Section 11. Water wells.

20 Section 12. Public nuisances.

1 Section 13. Penalties and remedies.

2 Section 14. Existing rights and remedies preserved.

3 Section 15. Existing rules and regulations.

4 Section 16. Transfer provisions.

5 Section 17. Financial provisions.

6 Section 18. Repeals.

7 Section 19. Effective date.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Water  
12 Resources Conservation and Protection Act.

13 Section 2. Definitions.

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

17 "Conjunctive use." The use of two or more sources of water,  
18 either in combination or as components of a single unit, to  
19 achieve increased efficiency of use or to enhance conservation,  
20 equitable distribution or management of water resources.

21 "Consume or consumptive use." To use, or the use of, water  
22 so that through evaporation, transpiration, incorporation into a  
23 product, diversion or any other means, some or all of the water  
24 withdrawn from a water resource is not returned to the same  
25 water resource at or upstream from the point of withdrawal  
26 resulting in a diminution in quantity or quality of the water  
27 resource.

28 "Critical water planning area." An area identified in an  
29 updated State Water Plan under section 5 or designated by the  
30 Department of Environmental Protection under section 3(a)(15)

1 where water availability does not meet current or projected  
2 future water resources needs.

3 "Department." The Department of Environmental Protection of  
4 the Commonwealth.

5 "Discharge." The release of withdrawn or diverted water,  
6 whether treated or untreated, to a water resource.

7 "Divert" or "diversion." To take or impound or the direct or  
8 indirect taking or impoundment of water from any water resource  
9 or to interfere, or the interference, with the prevailing  
10 hydrologic regime, whether or not the water is returned to its  
11 source, consumed, made to flow into another water resource or  
12 discharged elsewhere. The term includes the transfer of water  
13 through interconnections.

14 "Drill" or "drilling." To construct or alter, or all acts  
15 necessary to the construction or alteration of, a water well,  
16 such as drilling, boring, coring, washing, jetting, driving and  
17 digging.

18 "Drinking water well." Any water well that provides or is  
19 intended to provide water for human consumption and is not  
20 regulated under the act of May 1, 1984 (P.L.206, No.43), known  
21 as the Pennsylvania Safe Drinking Water Act.

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

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

28 "Groundwater." Any water of underground streams, channels,  
29 artesian basins, reservoirs, lakes and other occurrences of  
30 water in and under the ground, whether percolating or otherwise.

1 "Local agency." Any municipality or any combination thereof  
2 acting cooperatively or jointly under the laws of this  
3 Commonwealth, county, county department of health or joint  
4 county department of health.

5 "Major basin." The area drained by the Great Lakes and their  
6 tributaries or by the Susquehanna River and Chesapeake Bay or by  
7 one of the following major rivers and their respective  
8 tributaries: Delaware River, Ohio River and Potomac River.

9 "Municipality." A city, borough, incorporated town, township  
10 or home rule municipality.

11 "Nonwithdrawal use." Any reasonable use of water that is not  
12 withdrawn. These uses include, but are not limited to,  
13 recreation, navigation, energy production, fish and wildlife  
14 habitat, the maintenance of the natural, scenic, historic or  
15 aesthetic values of the environment and the uses protected under  
16 the authority of the act of June 22, 1937 (P.L.1987, No.394),  
17 known as The Clean Streams Law, and the Federal Water Pollution  
18 Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.).

19 "Person." Any individual, partnership, association, company,  
20 corporation, municipality, municipal authority, political  
21 subdivision, receiver or trustee or any agency, department,  
22 board, commission or authority of the Federal Government or of  
23 the Commonwealth or any other legal entity which is recognized  
24 by law as the subject of rights and duties. The term shall  
25 include the officers, employees and agents of any individual,  
26 partnership, association, company, corporation, municipality,  
27 municipal authority, political subdivision, receiver or trustee  
28 or any agency, department, board, commission or authority of the  
29 Federal Government or of the Commonwealth or any other legal  
30 entity.

1 "Public water supply agency." A community water system as  
2 defined by the act of May 1, 1984 (P.L.206, No.43), known as the  
3 Pennsylvania Safe Drinking Water Act, or any person subject to  
4 the act of June 24, 1939 (P.L.842, No.365), referred to as the  
5 Water Rights Law, or any successor act.

6 "Return flows or return of water." Any quantity of water,  
7 without respect to its original source, that by any direct or  
8 indirect means of discharge or dispersal is returned to a water  
9 resource.

10 "River basin commission." A commission created by an  
11 interstate compact and vested with the authority to develop  
12 plans, policies or projects relating to the water resources or  
13 to manage the water resources of a river basin.

14 "Safe yield." The amount of water that can be consumed from  
15 a water resource without causing an adverse result, such as  
16 long-term dewatering of an aquifer, induced potential health  
17 threats, or impacts upon withdrawal or nonwithdrawal uses or  
18 water quality.

19 "Secretary." The Secretary of Environmental Protection of  
20 the Commonwealth.

21 "State Water Plan." An assessment of the water resources  
22 prepared by the Department of Environmental Protection or its  
23 predecessor agencies under this act, section 1904-A of the act  
24 of April 9, 1929 (P.L.177, No.175), known as The Administrative  
25 Code of 1929, sections 5 and 304 of the act of June 22, 1937  
26 (P.L.987, No.394), known as The Clean Streams Law, or other  
27 applicable law.

28 "Statewide Water Resources Advisory Committee." The  
29 committee established under section 6.

30 "The Administrative Code of 1929." The act of April 9, 1929

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

2 "Water conservation practices." Those practices and  
3 measures, which are designed to accomplish any or all of the  
4 following:

5 (1) Reduce the demand for water.

6 (2) Improve efficiency in water use and reduce leakage,  
7 losses and waste of water.

8 (3) Improve reuse and recycling of water.

9 (4) Increase the supply of water.

10 "Water resource." Any of the "waters of the Commonwealth" as  
11 that term is defined by the act of June 22, 1937 (P.L.987,  
12 No.394), known as The Clean Streams Law.

13 "Water Rights Act." The act of June 24, 1939 (P.L.842,  
14 No.365), or its successor.

15 "Water well." Any excavation that is drilled, bored, cored,  
16 washed, driven, dug, jetted or otherwise constructed, when the  
17 intended use of that excavation is for the siting, monitoring,  
18 withdrawal, diversion or acquisition of groundwater or the  
19 injection of water resources into the ground, including  
20 geothermal wells. No excavation for the purposes of:

21 (1) obtaining or prospecting for oil, natural gas,  
22 petroleum, minerals or products of mining or quarrying;

23 (2) inserting media to repressure oil or natural gas  
24 bearing formations;

25 (3) storing petroleum or other materials, including  
26 brine or sewage disposal; or

27 (4) a ditch, such as an agricultural drain, road  
28 construction drain or culvert;

29 shall be deemed a water well for the purpose of this act.

30 "Water well driller." Any water well contractor who has

1 contracted for the drilling, digging, driving, boring, coring,  
2 washing, jetting, constructing, altering, repairing, siting or  
3 abandoning of any water well.

4 "Water Well Drillers License Act." The act of May 29, 1956  
5 (1955 P.L.1840, No.610).

6 "Watershed organization." An entity incorporated under the  
7 laws of this Commonwealth and established to promote local  
8 watershed planning, protection and conservation efforts in an  
9 identified watershed.

10 "Well owner." Any person who owns land used for any purpose  
11 on which a water well has been constructed.

12 "Withdraw," "withdrawal" or "withdrawn." The removal or  
13 taking of water from its natural location or course.

14 "Withdrawal use." Any reasonable use of water which is  
15 withdrawn. These uses include, but are not limited to,  
16 municipal, public, commercial, industrial and agricultural water  
17 supply. The term includes the transfer of water through  
18 interconnections.

19 Section 3. Powers and duties of department.

20 (a) Powers and duties of department.--The department shall  
21 have the power and its duty shall be to exercise all powers  
22 necessary or appropriate to carry out and effectuate the  
23 provisions of this act, the Water Well Drillers License Act and  
24 the Water Rights Act, including, but not limited to:

25 (1) Implement section 27 of Article I of the  
26 Constitution of Pennsylvania.

27 (2) Administer and enforce the provisions of this act,  
28 the Water Well Drillers License Act and the Water Rights Act.

29 (3) Maintain a comprehensive water resources information  
30 system, including, but not limited to:

1           (i) An inventory of all water resources, including  
2 consideration for water quantity and quality.

3           (ii) A record of all cumulative water withdrawals,  
4 diversions, consumptive uses, discharges and return flows  
5 of 10,000 or more gallons of water per day from or to one  
6 or more water resources.

7           (iii) An assessment of present and projected water  
8 use and demand, including consumptive use.

9           (iv) Identification of low-flow characteristics,  
10 safe yield, the capability of water resources to support  
11 withdrawal and nonwithdrawal uses and the minimum stream  
12 flows and groundwater levels necessary to ensure adequate  
13 water quantity and quality for the protection of water  
14 resources and ecology, aquatic organisms and other  
15 environmental values.

16           (v) Assessment of water resources required to  
17 support areas with important or unique natural, scenic,  
18 historic, esthetic, environmental or recreational values.

19           (4) Require recordkeeping, metering, measuring,  
20 monitoring, registration and reporting of such information as  
21 necessary to administer and obtain compliance with this act,  
22 the Water Well Drillers License Act or the Water Rights Act.

23           (5) Make inspections, investigations and examinations,  
24 exercise the right of entry, perform such tests or sampling  
25 and require the production of such things as necessary to  
26 determine compliance with or enforce this act, the Water Well  
27 Drillers License Act or the Water Rights Act.

28           (6) Provide water conservation education, technical  
29 assistance and advice to persons subject to the provisions of  
30 this act.



1           (7) Collect civil penalties and accept and administer  
2 funds from any source to aid in carrying out this act, the  
3 Water Well Drillers License Act or the Water Rights Act.

4           (8) Issue orders, assess civil penalties and initiate  
5 those proceedings as may be necessary and appropriate for the  
6 enforcement of this act, the Water Well Drillers License Act  
7 or the Water Rights Act.

8           (9) Cooperate and coordinate with river basin  
9 commissions and Federal, interstate, State, local and public  
10 water supply agencies and other public or private entities as  
11 may be appropriate for efficient water resources planning and  
12 to avoid duplicative requirements to which water users may be  
13 subject.

14          (10) Enter into administrative agreements, at its  
15 discretion, with river basin commissions or Federal,  
16 interstate, State or local agencies as may be appropriate for  
17 any of the following purposes:

18               (i) To facilitate the submission and coordinated  
19 review of information related to water resources.

20               (ii) To avoid unnecessary duplication of  
21 administrative or planning functions.

22               (iii) To provide for coordinated inspection,  
23 monitoring and enforcement of applicable laws and  
24 regulations.

25               (iv) To accept delegation of authority for the  
26 regulation or management of water resources planning or  
27 information collection.

28               (v) To coordinate the development of water resources  
29 plans in critical water planning areas and to ensure  
30 coordinated and effective response to water resources

1           shortages and drought emergencies.

2           (11) Enter into administrative agreements, at its  
3       discretion, with river basin commissions or Federal,  
4       interstate, State or local agencies as may be appropriate for  
5       the purpose of delegating any of its authority under this  
6       act. Any agency acting under a delegation agreement shall  
7       have the same powers and duties otherwise vested in the  
8       department to implement this act, to the extent delegated by  
9       the agreement.

10          (12) Act as facilitator or contract for the services of  
11       a facilitator in voluntary mediation proceedings for  
12       settlement of disputes concerning consumptive use of water.  
13       Representatives of all persons having an interest in the  
14       water in controversy shall agree in writing to abide by any  
15       settlement reached in mediation proceedings.

16          (13) Enter into contracts, including, but not limited  
17       to, grants and other cooperative arrangements at its  
18       discretion and under those terms and conditions as it may be  
19       deemed appropriate with river basin commissions or Federal,  
20       interstate, State or local agencies or with other persons in  
21       support of implementation of its powers and duties under this  
22       act. The department shall monitor and supervise activities  
23       conducted under such agreements for consistency with the  
24       department rules, regulations and policies.

25          (14) Receive financial and technical assistance from  
26       Federal, interstate or State agencies or other public or  
27       private entities where appropriate to do any and all things  
28       necessary to implement the provisions of this act.

29          (15) Establish procedures for the filing and review of  
30       petitions for the designation by the department, independent

1 of identification of such areas in the State Water Plan, of  
2 critical water planning areas, after notice and opportunity  
3 for comment from interested persons, including, but not  
4 limited to the following:

5 (i) Minimum information necessary to support a  
6 petition, including up-to-date reliable water resources  
7 data.

8 (ii) Name, address and the interest of the  
9 petitioner in the area that is the subject of a petition  
10 requesting designation.

11 (iii) Letter or other evidence of support for the  
12 petition from the appropriate county planning agency and  
13 applicable river basin commission.

14 (b) Administration of certain statutes.--The department  
15 shall exercise and is vested with the powers and duties  
16 established by the Water Well Drillers License Act, transferred  
17 to the Department of Conservation and Natural Resources by  
18 section 305 of the act of June 28, 1995 (P.L.89, No.18), known  
19 as the Conservation and Natural Resources Act. The department  
20 shall collect and administer the fees set by law in section 607-  
21 A of The Administrative Code of 1929, for a water well drillers  
22 license and water well driller rig permit. The definitions in  
23 this act shall supersede and hereby replace the definitions in  
24 the Water Well Drillers License Act.

25 (c) Water well technical advisory committee.--There is  
26 hereby established within the department a Water Well Technical  
27 Advisory Committee to advise the department in the preparation  
28 of recommendations for regulations to be promulgated by the  
29 Environmental Quality Board under section 4 and in implementing  
30 a water well program under section 11. The committee shall

1 consist of no more than 12 members to be appointed by the  
2 secretary, with consideration of a diverse geographic  
3 representation, and to include technically competent and  
4 experienced persons representing water well drillers,  
5 hydrogeologists and public health officials. Of the members  
6 first appointed, four members of the committee shall serve for a  
7 period of three years, four members shall serve for a period of  
8 two years and four members shall serve for a period of one year.  
9 Thereafter, each appointment shall be for a period of three  
10 years. All vacancies shall be filled for the remainder of the  
11 unexpired term in the same manner as the original appointments  
12 to provide equitable representation of groups and geographic  
13 areas. A member, upon expiration of the term, shall continue to  
14 hold office until a successor is appointed. The department shall  
15 make recommendations to the Environmental Quality Board on  
16 proposed regulations regarding water wells within one year of  
17 the effective date of this act.

18 Section 4. Powers and duties of Environmental Quality Board.

19 (a) General rule.--The Environmental Quality Board shall  
20 exercise and is vested with the powers and duties established by  
21 section 12 of the Water Well Drillers License Act, transferred  
22 to the Department of Conservation and Natural Resources by  
23 section 305 of the act of June 28, 1995 (P.L.89, No.18), known  
24 as the Conservation and Natural Resources Act, with regard to  
25 the adoption, amendment and rescission of reasonable rules and  
26 regulations as may be necessary to accomplish the purposes of  
27 the Water Well Drillers License Act and this act.

28 (b) Specific regulation.--The Environmental Quality Board  
29 shall exercise the power to formulate, adopt and promulgate  
30 rules and regulations concerning, but not limited to, the

1 following:

2 (1) Minimum standards for the siting, construction,  
3 alteration and abandonment of water wells.

4 (2) Minimum standards for the reporting of information  
5 on the siting, construction, alteration and abandonment of  
6 water wells.

7 (3) Minimum standards for the performance of water  
8 sampling and reporting of water quality analyses on drinking  
9 water wells.

10 (4) Minimum standards requiring the abandonment of water  
11 wells, including sealing or filling.

12 (5) Minimum standards for the testing and appropriate  
13 hydrologic training of water well drillers.

14 Section 5. State Water Plan.

15 (a) Preparation.--Within three years of the effective date  
16 of this act, and every five years thereafter, the department  
17 shall prepare and adopt an updated State Water Plan. The updated  
18 plan shall be prepared with the advice of and in consultation  
19 with a Statewide Water Resources Advisory Committee and with  
20 other State, interstate, regional and other agencies,  
21 commissions, organizations and advisory committees as deemed  
22 appropriate by the department.

23 (b) Scope.--The plan shall be a high-level plan for the  
24 purposes identified in section 1904-A of The Administrative Code  
25 of 1929, consistent with the public interest, other laws and  
26 regulations relating to water resources and the preservation of  
27 the natural, scenic, historic and esthetic values of the  
28 environment. The plan shall include:

29 (1) Identification and analysis of major water resources  
30 issues by major basin.

1           (2) That combination of policies, programs,  
2       institutional arrangements and recommendations that address  
3       the identified issues and the water quantity and related  
4       quality needs and objectives of the Commonwealth and that  
5       will guide future actions in managing the water resources in  
6       the public interest.

7           (3) Identification of critical water planning areas.

8       (c) Factors considered.--In developing the plan,  
9       consideration shall be given to:

10           (1) Analysis of existing and readily available water  
11       resources data.

12           (2) Local and regional water resources needs, priorities  
13       and objectives.

14           (3) National, interstate and State water resources  
15       policies and objectives, including those identified in  
16       statutory law, regulations, compacts, interstate agreements  
17       or comprehensive plans adopted by Federal, interstate, State  
18       or river basin commission agencies.

19           (4) Assessment of water availability and demands.

20           (5) The conjunctive use, development and management of  
21       water resources.

22           (6) Application of water conservation practices and  
23       water resource management and hydrologic principles,  
24       including the protection of withdrawal and nonwithdrawal  
25       uses, stream flows and provision for consumptive use makeup.

26           (7) The benefits, costs and economic, social and  
27       environmental impacts of alternative policies, programs,  
28       institutional arrangements and recommendations.

29       (d) Public review.--

30           (1) During the plan development process, the department

1 shall hold public information meetings in order to receive  
2 public comment.

3 (2) Through publication in the Pennsylvania Bulletin and  
4 such other methods of public notice as deemed appropriate,  
5 including the department's World Wide Web site, the  
6 department shall provide public notice of the availability of  
7 a draft plan for review at the department's regional offices  
8 and other sites across the Commonwealth and shall accept  
9 public comment for a period of at least 90 days before it  
10 adopts a final updated plan.

11 (3) The department shall hold public hearings, with  
12 public notice of the hearings being provided in the same  
13 manner as in paragraph (2), before it adopts a final updated  
14 plan.

15 Section 6. Statewide Water Resources Advisory Committee.

16 (a) Establishment.--There is hereby established within the  
17 department a Statewide Water Resources Advisory Committee.

18 (b) Membership.--

19 (1) The committee shall consist of:

20 (i) The secretary or a designee, who shall be  
21 chairman.

22 (ii) The Secretary of Agriculture or a designee.

23 (iii) The chairman of the Public Utility Commission  
24 or a designee.

25 (iv) The Secretary of Conservation and Natural  
26 Resources or a designee.

27 (v) The Secretary of Community and Economic  
28 Development or a designee.

29 (vi) The executive directors of the Pennsylvania  
30 Game Commission and the Pennsylvania Fish and Boat

Commission or their designees.

(vii) The executive director of the Pennsylvania Emergency Management Agency or a designee.

(viii) One member appointed by the secretary from each of the five major basins.

(ix) Twelve members representing the interests of commerce, manufacturing, mining, energy and power, agriculture, environment and conservation, public water supply, municipal government, recreation, fish and wildlife, private practice groundwater science, and academic surface water science to be appointed by the Majority and Minority Leaders of the Senate and the Majority and Minority Leaders of the House of Representatives who shall each appoint three of the 12 members. In making these appointments, they shall seek a diverse geographic representation to the extent possible.

(2) Of the members first appointed by the secretary under subparagraph (1)(viii), two shall serve for a period of three years, two shall serve for a period of two years and one shall serve for a period of one year. Thereafter, each appointment shall be for a period of three years. All vacancies shall be filled for the remainder of the unexpired term in the same manner as the original appointments to provide equitable representation of groups and geographic areas. A member, upon expiration of the term, shall continue to hold office until a successor is appointed.

(3) Of the three members appointed each by the majority and minority leaders under subparagraph (1)(ix), one shall serve for a period of three years, one shall serve for a period of two years and one shall serve for a period of one



1 year. Thereafter, each appointment shall be for a period of  
2 three years. All vacancies shall be filled for the remainder  
3 of the unexpired term in the same manner as the original  
4 appointments to provide equitable representation of groups  
5 and geographic areas. A member, upon expiration of the term,  
6 shall continue to hold office until a successor is appointed.

7 (c) Duties.--The committee shall advise the department in  
8 the preparation of the State Water Plan and in implementing  
9 other water resources programs under this act except the water  
10 well program.

11 Section 7. Registration, reporting and recordkeeping.

12 (a) Registrations.--Any person whose existing, new or  
13 increased withdrawal, diversion or consumptive use from one or  
14 more water resources causes a total withdrawal, diversion or  
15 consumptive use to equal or exceed an average of 10,000 gallons  
16 per day in any 30-day period and all public water supply  
17 agencies shall register with the department each source and the  
18 amount of each withdrawal, diversion or consumptive use.  
19 Registrations shall be submitted to the department no later than  
20 twelve months from the effective date of this act or 30 days  
21 from the initiation of such withdrawal, diversion or consumptive  
22 use, whichever is later. Registrations shall be submitted on  
23 forms in a manner and with accompanying data as prescribed by  
24 the department.

25 (b) Reporting.--Beginning on the first day of January  
26 following the effective date of this act, any person whose  
27 existing, new or increased withdrawal, diversion, consumptive  
28 use, discharge or return of water from or to one or more water  
29 resources causes a total withdrawal, diversion, consumptive use,  
30 discharge or return to equal or exceed an average of 10,000

1 gallons per day in any 30-day period and all public water supply  
2 agencies shall report to the department annually the source and  
3 amount of each withdrawal, diversion, consumptive use,  
4 discharge, or return flow. The information shall be submitted to  
5 the department on forms, in such manner and with accompanying  
6 data as prescribed by the department.

7 (c) Measurements, records and reports.--The department may  
8 require any person subject to subsection (a) or (b) to install,  
9 use and maintain metering equipment or methods, to perform  
10 measuring, to maintain and retain records of information from  
11 metering and measuring activities, to submit reports of metering  
12 and measuring results and to provide such other information as  
13 may be required to determine compliance with this act or with  
14 the terms or conditions of any order issued under this act.

15 Section 8. Critical water planning areas.

16 (a) Nomination process.--The department shall establish a  
17 process whereby the public may nominate a watershed  
18 organization, river basin commission, planning agency or other  
19 appropriate entity or combination of entities to prepare an  
20 Integrated Water Resources Plan for any watershed in a critical  
21 water planning area which is identified by an updated State  
22 Water Plan in accordance with section 5 or designated by the  
23 department under section 3(a)(15). The nominations shall be  
24 subject to public notice and comment.

25 (b) Department to designate.--Based upon nominations under  
26 subsection (a), the department is authorized to designate a  
27 watershed organization, river basin commission, planning agency  
28 or other appropriate entity or combination of entities to  
29 prepare an Integrated Water Resources Plan for any watershed in  
30 a critical water planning area identified by an updated State

Water Plan in accordance with section 5 or designated by the department under section 3(a)(15). The department shall designate only entities that meet all of the following requirements:

(1) Are technically capable of completing an Integrated Water Resources Plan that meets the requirements of subsection (c).

(2) Are representative of the watershed for which the plan is being prepared.

(3) Have demonstrated a capability and commitment to the public participation process that must be part of the planning process required by subsection (d).

(c) Contents of plan.--An Integrated Water Resources Plan shall contain, at a minimum, the following components:

(1) Identification of existing water resources within the watershed, including water resources that originate outside the watershed and those that are exported.

(2) Assessment of the impacts of water quality and remediation upon water resources availability.

(3) Identification of current withdrawal and nonwithdrawal uses within the watershed, including consumptive and conjunctive uses.

(4) Projection of future trends in withdrawal and nonwithdrawal uses and water resources needs, including population and land use projections, within the watershed.

(5) Assessment of the capacity of the watershed to provide adequate water supplies to meet anticipated demands and water resources needs, including the minimum stream flows and groundwater levels necessary to ensure adequate water quantity and quality for the protection of the water resource

1 and ecology, aquatic organisms and other environmental  
2 values.

3 (6) Consideration of storm water and floodplain  
4 management within the watershed, including their impacts upon  
5 water quality and quantity.

6 (7) Identification of water resources shortfalls,  
7 existing and potential conflicts among users and areas of the  
8 watershed that require special management.

9 (8) Evaluation of supply-side and demand-side  
10 alternatives to meet water resources needs of the watershed.

11 (9) Assessment of wastewater discharges to subsurface  
12 formations and to surface water resources.

13 (10) Recommendations for programs, procedures and  
14 management options, including a schedule to implement and  
15 periodically update at least every five years, the Integrated  
16 Water Resources Plan, resolve conflicts and to meet water  
17 resources needs in the watershed based upon accepted  
18 principles of hydrology, effective environmental protection  
19 and efficient water management principles and consistent with  
20 the public interest, laws and regulations related to water  
21 resources and the preservation of the natural, scenic,  
22 historic and esthetic values of the environment.

23 (d) Municipal and public participation.--

24 (1) The entity designated under (b) shall establish, in  
25 conjunction with each Integrated Water Resources Plan, a  
26 watershed planning advisory committee, composed of at least  
27 one representative from each municipality within the  
28 watershed, the appropriate county conservation district or  
29 districts, the appropriate county planning agency or agencies  
30 and such other agencies or groups with interests in the

1 watershed as are necessary and proper to carry out the  
2 purposes of the committee, which may include representatives  
3 of public water supply, industry, commerce, energy,  
4 agriculture, conservation and environment.

5 (2) The watershed planning advisory committee shall be  
6 responsible for advising the entity designated under  
7 subsection (b) throughout the planning process, evaluating  
8 policy, program and management alternatives, coordinating the  
9 Integrated Water Resources Plan with other municipal plans  
10 and programs and reviewing the plan prior to adoption.

11 (3) Prior to submission to the department, each  
12 Integrated Water Resources Plan shall be reviewed by the  
13 official planning agency and governing body of each  
14 municipality in the watershed, the appropriate county  
15 planning agency and regional planning agencies for  
16 consistency with other plans and programs affecting the  
17 watershed. All reviews shall be submitted to the department  
18 with the proposed plan.

19 (e) Submission of plan and department review.--Upon  
20 completion of the Integrated Water Resources Plan, the entity  
21 designated under subsection (b) shall submit the Integrated  
22 Water Resources Plan to the department for review and approval.  
23 The department shall give notice and accept public comment on  
24 any Integrated Water Resources Plan submitted to it. In addition  
25 to considering the public comment, the department's review of an  
26 Integrated Water Resources Plan shall ensure that the plan is  
27 consistent with subsections (c) and (d) and does not conflict  
28 with any laws or regulations related to water resources, the  
29 State Water Plan, any applicable river basin commission  
30 comprehensive plan or any other Integrated Water Resources Plans

1 that may have been approved by the department.

2 (f) Voluntary reduction.--The department shall encourage the  
3 voluntary implementation of water use reduction plans by all  
4 water users in a critical water planning area. The department  
5 will make available technical assistance for this purpose. The  
6 department shall identify tools, including programs, procedures  
7 and management options that may be available for the voluntary  
8 implementation of such plans in a critical water planning area.

9 Section 9. Voluntary water conservation.

10 (a) Center established.--There is hereby established within  
11 the department a Water Resources Technical Assistance Center to  
12 promote voluntary water conservation and to provide technical  
13 assistance on water resources issues. The center shall:

14 (1) Establish a voluntary Statewide water conservation  
15 program for all water users.

16 (2) Establish guidelines for the development of  
17 voluntary water use reduction plans in critical water  
18 planning areas.

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

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

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

25 (6) Develop a program to promote voluntary reduction of  
26 unaccounted for water loss.

27 (b) Approval of grants, priority.--When approving grants or  
28 loans, pursuant to the act of March 1, 1988 (P.L.82, No.16),  
29 known as the Pennsylvania Infrastructure Investment Authority  
30 Act, the Pennsylvania Infrastructure Investment Authority shall

1 give priority to funding projects that address unaccounted-for  
2 water loss or that implement water conservation practices by any  
3 public water supply agency whose unaccounted-for water loss rate  
4 exceeds 20%.

5 Section 10. Grants.

6 (a) Authorization.--The department is authorized to provide  
7 grants for the following purposes:

8 (1) Reimbursement of up to 75% of the cost of preparing  
9 an Integrated Water Resources Plan under section 8.

10 (2) Reimbursement of up to 75% of the cost of preparing  
11 a voluntary water use reduction plan under section 8.

12 (3) Water resources education, technical assistance and  
13 water conservation, including unaccounted-for water loss  
14 reduction, under section 9.

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

17 Section 11. Water wells.

18 (a) License required to abandon.--One year after the  
19 effective date of this act no person shall abandon any water  
20 well within this Commonwealth unless that person has first  
21 secured from the department a license in conformance with the  
22 procedures in section 6 of the Water Well Drillers License Act.

23 (b) Local agencies.--

24 (1) Nothing contained in this act shall be construed to  
25 preempt the ability of a local agency to adopt or enforce  
26 standards more stringent than those promulgated by the  
27 Environmental Quality Board under section 4, so long as they  
28 do not conflict with the standards promulgated by the  
29 Environmental Quality Board.

30 (2) The provisions of any ordinance or regulation of any

1 local agency that does not equal or exceed the minimum  
2 standards promulgated by the Environmental Quality Board  
3 under section 4 for siting, construction, alteration or  
4 abandonment of water wells or for the performance of water  
5 sampling and reporting of water quality analyses on drinking  
6 water wells shall be superseded by the standards promulgated  
7 by the Environmental Quality Board on the effective date of  
8 those standards.

9 (c) Siting, construction, alteration and abandonment.--

10 (1) Beginning one year after the effective date of the  
11 standards promulgated by the Environmental Quality Board  
12 under section 4, any person who sites, constructs, alters or  
13 abandons a water well shall do so in accordance with and  
14 shall certify in writing that the person has performed the  
15 work in accordance with such standards and shall submit  
16 certification to the department and to the property owner for  
17 whom the work was performed. The certification shall include  
18 notice that the written statement is made under 18 Pa.C.S. §  
19 4904(b) (relating to unsworn falsification to authorities),  
20 or successor statute, and shall be delivered by certified  
21 mail to the property owner. The certification, together with  
22 such information on the siting, construction, alteration or  
23 abandonment of the water well as prescribed by the standards  
24 promulgated by the Environmental Quality Board under section  
25 4, shall be submitted to the department on forms, in such  
26 manner and with accompanying data as shall be prescribed by  
27 the department.

28 (2) Beginning one year after the effective date of the  
29 standards promulgated by the Environmental Quality Board  
30 under section 4, any person who constructs or alters a



1 drinking water well shall take or cause to be taken, at the  
2 time of construction or alteration, a water sample which  
3 shall be analyzed by a laboratory certified under the act of  
4 May 1, 1984 (P.L.206, No.43), known as the Pennsylvania Safe  
5 Drinking Water Act, or successor act, for the contaminants  
6 specified by the standards promulgated by the Environmental  
7 Quality Board. Prior to use of the well for human  
8 consumption, a report of the results of the water quality  
9 analyses shall be submitted by or on behalf of the drinking  
10 water well driller to the drinking water well owner and to  
11 the department on forms, in the manner and with accompanying  
12 information prescribed by the department. Any well owner who  
13 intends to transfer any interest in the water well shall make  
14 disclosure of the water quality analyses, following the  
15 disclosure procedure established by or under the act of July  
16 2, 1996 (P.L.500, No.84), known as the Real Estate Seller  
17 Disclosure Act.

18 (d) Water well driller testing, training and licensing.--  
19 Beginning one year after the effective date of the standards  
20 promulgated by the Environmental Quality Board under section 4,  
21 any person licensed or making application to be licensed under  
22 the Water Well Drillers License Act shall take and pass a water  
23 well drillers test designated by the department and every three  
24 years thereafter shall take six hours of appropriate hydrologic  
25 training approved by the department. A water well driller shall  
26 submit proof of a passing grade on such test and of successful  
27 completion of the requisite hours of training with submission of  
28 the annual license fee at the time the person makes application  
29 for an initial license or renewal of a license to the department  
30 or successor agency under the Water Well Drillers License Act or

1 successor act. Failure to submit such proof will be cause for  
2 denial of the application. Submission of false information  
3 concerning such test or training shall be cause to suspend,  
4 revoke or deny an application for a license of any water well  
5 driller. Violation of subsection (c), including falsification of  
6 any required certification under subsection (c)(1), shall also  
7 be cause to suspend, revoke, or deny an application for a  
8 license of any water well driller.

9 (e) Penalties.--

10 (1) Any person who violates the Water Well Drillers  
11 License Act or subsection (a) or (c) of this section,  
12 including violations of the standards promulgated by the  
13 Environmental Quality Board under section 4, commits a  
14 summary offense and shall, upon conviction, be sentenced to  
15 pay a fine of not less than \$500 and not more than \$2,500 and  
16 costs. Violations are enforceable by the department or its  
17 agents, proper law enforcement authorities or private  
18 citizens under Pa.R.Crim.P. Nos. 400-462 (relating to  
19 procedures in summary cases) and 1000-1013 (relating to rules  
20 of criminal procedure for the Philadelphia Municipal Court).

21 (2) Each day that a violation continues shall be  
22 considered a separate violation.

23 Section 12. Public nuisances.

24 (a) Violation constitutes a public nuisance.--Any violation  
25 of any provision of this act, the Water Well Drillers License  
26 Act or the Water Rights Act or any order of the department shall  
27 constitute a public nuisance. Any person committing a violation  
28 shall be liable for the costs of abatement of any public  
29 nuisance caused by such violation. The Environmental Hearing  
30 Board and any court of competent jurisdiction is hereby given

1 jurisdiction over actions to recover the costs of such  
2 abatement.

3 (b) Abatement of violation.--Any activity declared by this  
4 act to be a nuisance or which is otherwise a violation of this  
5 act, the Water Well Drillers License Act or the Water Rights Act  
6 shall be abatable in the manner provided by law or equity for  
7 the abatement of public nuisances. In addition, the department  
8 may proceed in equity to abate such nuisances or to restrain or  
9 prevent any violation of this act, the Water Well Drillers  
10 License Act or the Water Rights Act.

11 Section 13. Penalties and remedies.

12 (a) Duty to comply with orders of the department.--It shall  
13 be the duty of any person to proceed diligently to comply with  
14 any order issued pursuant to section 3. If such person fails to  
15 proceed diligently or fails to comply with the order within such  
16 time, if any, which may be specified, the person shall be guilty  
17 of contempt and shall be punished by the court in an appropriate  
18 manner. For this purpose, application may be made by the  
19 department to the Commonwealth Court, which court is hereby  
20 granted jurisdiction.

21 (b) Department to enforce.--The department shall have the  
22 power and its duty shall be to issue such orders and initiate  
23 such proceedings as may be necessary and appropriate for the  
24 enforcement of this act, the Water Well Drillers License Act or  
25 the Water Rights Act, any other provision of law  
26 notwithstanding. These actions shall include, but are not  
27 limited to, the following:

28 (1) To institute in any court of competent jurisdiction,  
29 proceedings against any person to compel compliance with the  
30 provisions of this act, the Water Well Drillers License Act

1 or the Water Rights Act.

2 (2) To do any and all things and actions not  
3 inconsistent with any provision of this act for the effective  
4 enforcement of this act, the Water Well Drillers License Act  
5 or the Water Rights Act.

6 (c) Civil penalties.--In addition to proceeding under any  
7 other remedy available at law or in equity for a violation of  
8 any provision of this act, the Water Well Drillers License Act  
9 or the Water Rights Act or any order issued thereunder, the  
10 department may assess a civil penalty upon a person for a  
11 violation. The civil penalty may be assessed, whether or not the  
12 violation was willful or negligent. When the department assesses  
13 a civil penalty, it shall inform the person of the amount of the  
14 penalty. The person assessed with the penalty shall then have 30  
15 days to pay the penalty in full or, if the person wishes to  
16 contest either the amount of the penalty or the fact of the  
17 violation, the person shall, within the 30-day period, file an  
18 appeal of the action with the Environmental Hearing Board.  
19 Failure to appeal within 30 days shall result in a waiver of all  
20 legal rights to contest the violation or the amount of the  
21 penalty. The maximum civil penalty that may be assessed under  
22 this section is \$2,500 per day for each violation. Each  
23 violation for each separate day and each violation of any  
24 provision of this act, the Water Well Drillers License Act or  
25 the Water Rights Act, or any order issued thereunder, shall  
26 constitute a separate and distinct offense under this  
27 subsection. In determining the amount of the penalty, the  
28 department shall consider:

29 (1) The willfulness and duration of the violation.

30 (2) Damage to water resources, land or other natural

resources or their uses, cost of restoration and abatement.

(3) Savings resulting to the person in consequences of the violation.

(4) Deterrence of future violations.

(5) Other relevant factors.

(d) Penalties to be concurrent.--The penalties and remedies prescribed by this act shall be deemed concurrent and the existence of or exercise of any remedy shall not prevent the department from exercising any other remedy hereunder, at law or in equity.

(e) Separate offenses.--Violations on separate days shall constitute separate offenses for purposes of this act.

Section 14. Existing rights and remedies preserved.

Except as provided in section 18, nothing in this act shall be construed in a manner to repeal or supersede existing rights and obligations of persons under existing law or statute.

Section 15. Existing rules and regulations.

(a) Validity.--Any rules and regulations promulgated prior to the effective date of this act pursuant to the Water Well Drillers License Act shall be the rules and regulations of the department and shall continue in full force and effect, except as modified by this act, until such time as the rules and regulations are modified or repealed by the Environmental Quality Board, under section 4 and under section 1920-A of The Administrative Code of 1929.

(b) Notice.--The department shall deposit a notice with the Legislative Reference Bureau renumbering the regulations at 17 Pa. Code Ch. 47 (relating to drilling water wells), to the appropriate title of the Pennsylvania Code and making at that time needed editorial changes to reflect the transfer of powers

1 and duties under this act.

2 Section 16. Transfer provisions.

3 (a) Transfer enumerated.--All personnel, allocations,  
4 appropriations, equipment, files, records, contracts,  
5 agreements, obligations and other materials which are used,  
6 employed or expended by the Department of Conservation and  
7 Natural Resources in conjunction with the functions transferred  
8 by this act to the department are hereby transferred to the  
9 department as if these contracts, agreements and obligations had  
10 been incurred or entered into by the department in the first  
11 instance.

12 (b) Apportionment.--The personnel, appropriations, equipment  
13 and other items and material transferred by this section shall  
14 include an appropriate portion of the general administrative,  
15 overhead and supporting personnel, appropriations, equipment and  
16 other material of the Department of Conservation and Natural  
17 Resources.

18 (c) Status of employees.--All personnel transferred pursuant  
19 to this act shall retain any civil service employment status  
20 assigned to the personnel.

21 Section 17. Financial provisions.

22 (a) Water Conservation Account.--All fines, civil penalties  
23 or recovered costs collected under the provisions of section 11,  
24 12 or 13 shall be paid into the State Treasury into a separate  
25 account to be known as the Water Conservation Account. All  
26 moneys placed in the account are hereby appropriated to the  
27 department for the purposes authorized in this act.

28 (b) Use of other funds.--Money in the Environmental  
29 Stewardship Fund, established by 27 Pa.C.S. § 6104 (relating to  
30 fund), known as the Environmental Stewardship and Watershed

1 Protection Act, which is available to the department, and The  
2 Clean Water Fund, established by the act of June 22, 1937  
3 (P.L.1987, No.394)), known as The Clean Streams Law, may be used  
4 by the department for the purposes of this act.

5 Section 18. Repeals.

6 Sections 3, 11 and 13 of the act of May 29, 1956 (1955  
7 P.L.1840, No.610), known as the Water Well Drillers License Act,  
8 are repealed.

9 Section 19. Effective date.

10 This act shall take effect immediately.