

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2266 Session of 2008

INTRODUCED BY STEIL, FREEMAN, BELFANTI, BRENNAN, CALTAGIRONE, CUTLER, DALLY, FRANKEL, GEORGE, GINGRICH, GOODMAN, GRUCELA, HENNESSEY, KOTIK, MELIO, R. MILLER, MILNE, MURT, MUSTIO, MYERS, NAILOR, O'NEILL, PETRONE, REICHLEY, RUBLEY, SAYLOR, SCAVELLO, SIPTROTH, STERN, YOUNGBLOOD AND SCHRODER, FEBRUARY 26, 2008

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2008

AN ACT

1 Updating and expanding the storm water planning requirements to
2 be undertaken by counties; authorizing counties to regulate
3 storm water within a watershed-based planning area;
4 authorizing the formation of water resources management
5 authorities; enabling counties, municipalities and water
6 resources management authorities to develop integrated water
7 resources management plans; imposing duties and conferring
8 powers on the Department of Environmental Protection, the
9 Environmental Quality Board, counties, municipalities and
10 water resources management authorities; providing for
11 financing and for waiver of use for certain grant OR loan ←
12 funds; and making related repeals.

TABLE OF CONTENTS

13
14 Chapter 1. General Provisions
15 Section 101. Short title.
16 Section 102. Legislative findings.
17 Section 103. Purpose.
18 Section 104. Definitions.
19 Chapter 2. Powers and Duties
20 Section 201. Powers and duties of counties.

1 Section 202. Powers and duties of department and Environmental
2 Quality Board.

3 Section 203. Powers and duties of municipalities.

4 Section 204. Powers and duties of water resources management
5 authorities.

6 Chapter 3. Comprehensive Storm Water Management Planning

7 Section 301. Comprehensive storm water planning and management
8 requirements.

9 Section 302. Review and approval or disapproval by department.

10 Section 303. Implementation of comprehensive storm water
11 management plans.

12 Section 304. Failure to submit or implement comprehensive storm
13 water management plan.

14 Section 305. Failure of municipalities to adopt ordinances
15 and implement plans.

16 Chapter 4. Integrated Water Resources Management Planning
17 and Procedure

18 Section 401. Water resources management coordination and
19 integration.

20 Section 402. Integrated water resources management planning
21 process.

22 Section 403. Integrated water resources management plan
23 requirements.

24 Section 404. Implementation of integrated water resources
25 management plans.

26 Section 405. Water resources management corridors.

27 Section 406. Failure of municipalities to adopt implementing
28 ordinances.

29 Chapter 5. Water Resources Management Authorities

30 Section 501. Water resources management authorities.

1 Section 502. Additional powers and duties of water resources
2 management authorities.

3 Chapter 6. Rights, Remedies, Funding and Enforcement

4 Section 601. Duty of persons engaged in development of land.

5 Section 602. Funding and imposing fees on tax-exempt property.

6 Section 603. Entry upon land for surveys and examinations.

7 Section 604. Preservation of existing rights and remedies.

8 Section 605. Civil remedies.

9 Section 606. Administrative procedure and judicial review.

10 Section 607. Integrated Water Resources Management Account.

11 Section 608. Grants and reimbursements.

12 Section 609. Waiver of use of grant and loan funds.

13 Chapter 7. Miscellaneous Provisions

14 Section 701. Repeals.

15 Section 702. Effective date.

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 Integrated
22 Water Resources Restoration, Protection and Management Act.

23 Section 102. Legislative findings.

24 The General Assembly finds that:

25 (1) Inadequate management of storm water runoff and the
26 insufficient planning, coordination and integration of
27 regulatory programs associated with water resources
28 management activities causes increased flood flows and
29 velocities, contributes to accelerated erosion and
30 sedimentation, overtaxes the carrying capacity of streams and

1 storm sewers, greatly increases the cost of public facilities
2 to carry and control storm water and wastewater, undermines
3 flood plain management and flood control efforts in
4 downstream communities, reduces groundwater recharge,
5 diminishes the quality and quantity of water supplies and
6 threatens the environment, public health, safety and
7 property.

8 (2) The act of October 4, 1978 (P.L.864, No.167), known
9 as the Storm Water Management Act, is not sufficiently
10 comprehensive to address the needs of this Commonwealth.
11 While the act provides a basis for storm water management
12 planning by counties on a watershed basis, additional
13 provisions are needed in addition to the Storm Water
14 Management Act requirements to provide integrated and
15 thorough planning and management of water resources in
16 watershed-based planning areas and to address current and
17 past water resources management problems, as well as
18 prospective and ongoing development.

19 (3) A comprehensive, integrated approach to water
20 resources management, building on the protections established
21 under the act of June 22, 1937 (P.L.1987, No.394), known as
22 The Clean Streams Law, including reasonable regulation of
23 development and activities causing adverse impacts to waters
24 of this Commonwealth, is fundamental to public health, safety
25 and welfare and protection of the citizens of this
26 Commonwealth, their resources and the environment.

27 (4) Adequate management of this Commonwealth's water
28 resources requires additional legal mechanisms for
29 coordination and integration of water resources management
30 planning among State agencies and county and municipal

1 governments.

2 (5) Dedicated funding is needed to develop and implement
3 integrated water resources management plans to protect,
4 maintain, reclaim and restore this Commonwealth's water
5 resources and the environment and to protect public health,
6 safety and property.

7 Section 103. Purpose.

8 The purpose of this act is to:

9 (1) Provide for more comprehensive storm water planning
10 and management, building on the framework found in the act of
11 October 4, 1978 (P.L.864, No.167), known as the Storm Water
12 Management Act, and implementing the act of June 22, 1937
13 (P.L.1987, No.394), known as The Clean Streams Law, to
14 authorize planning for and remediation of storm water-
15 associated problems and integrating related water resources
16 management programs.

17 (2) Restore, reclaim, protect and maintain the water
18 quality, quantity and natural hydrologic regime; regulate
19 and, where appropriate, restrict development in the floodways
20 and floodplains of this Commonwealth's rivers and streams;
21 preserve the carrying capacity of watercourses; and protect,
22 maintain, reclaim and restore surface waters and groundwaters
23 of this Commonwealth.

24 (3) Protect the natural resources, environmental rights
25 and values secured by the Constitution of Pennsylvania.

26 (4) Authorize counties to undertake and enforce
27 comprehensive, ecologically sustainable and consistent water
28 resources management planning; consolidate and coordinate
29 governmental resources; and establish a dedicated, stable and
30 tailored funding source. If a county does not elect to

1 undertake such integrated water resources planning or
2 management, municipalities or water resources management
3 authorities are authorized to undertake these activities.

4 (5) Encourage the regional implementation of integrated
5 water resources management plans within watershed-based
6 planning areas to preserve and protect areas from the adverse
7 effects of fragmented planning related to water resources
8 protection, water infrastructure, wet weather and wastewater
9 management, storm water runoff and subsurface drainage.

10 (6) Authorize the creation of water resources management
11 authorities to enable counties and municipalities to
12 regulate, manage, operate and maintain activities, facilities
13 and development that may affect storm water runoff or water
14 resources within watershed-based planning areas; regulate,
15 implement and manage comprehensive storm water management
16 plans or integrated water resources management plans within
17 watershed-based planning areas; and undertake the planning
18 related thereto under this act when appropriate.

19 (7) Encourage water resources management authorities to
20 utilize a comprehensive integrated water resources approach
21 for water resources protection, maintenance and improvement,
22 including quantity and quality, and other environmental
23 benefits.

24 (8) Authorize dedicated funding to develop and implement
25 updated, expanded and comprehensive storm water planning and
26 management, as well as to develop and implement integrated
27 water resources management plans to protect, maintain,
28 reclaim and restore this Commonwealth's water resources and
29 to protect public health, safety, property and the
30 environment.

1 Section 104. Definitions.

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

5 "Best management practices." Activities, facilities,
6 measures or procedures used to protect, maintain, reclaim and
7 restore the quantity and quality of waters and uses within this
8 Commonwealth.

9 "Bonds." The notes, bonds and other evidence of indebtedness
10 or obligations which are authorized to be issued under section
11 ~~501~~ 502. <—

12 "Clean Streams Law." The act of June 22, 1937 (P.L.1987,
13 No.394), known as The Clean Streams Law.

14 "Comprehensive storm water management plan." ~~Storm~~ A STORM <—
15 water management ~~plans~~ PLAN developed in accordance with act of <—
16 October 4, 1978 (P.L.864, No.167), known as the Storm Water
17 Management Act, and the requirements of ~~this act~~ CHAPTER 3. <—

18 "Critical water planning area." An area identified under 27
19 Pa.C.S. § 3112(a)(6) or (d)(1) (relating to plan contents).

20 "Department." The Department of Environmental Protection of
21 the Commonwealth.

22 "Infrastructure." Structural elements, structural and
23 nonstructural management practices and operating procedures that
24 support drinking water, wastewater, storm water, floodplain and
25 other water resources management activities.

26 "Integrated water resources management." Implementation of
27 multiple statutory and regulatory planning obligations related
28 to the water resources of this Commonwealth.

29 "Integrated water resources management plan." A plan
30 containing all of the elements prescribed under the act of

1 October 4, 1978 (P.L.864, No.167), known as the Storm Water
2 Management Act, and the additional requirements of Chapters 3
3 and 4 which includes proposals for regulating activities and
4 development that may affect water resources and wastewater
5 management within the planning area.

6 "Land development." The subdivision of land, or the
7 improvement of one or more lots, tracts or parcels of land for
8 any purpose.

9 "Municipalities Planning Code." The act of July 31, 1968
10 (P.L.805, No.247), known as the Pennsylvania Municipalities
11 Planning Code.

12 "Municipality." A city, borough, town, township or another
13 governmental unit when acting as an agent thereof or any
14 combination of these acting jointly.

15 "Recharge." The process by which water is absorbed and is
16 added to the zone of saturation of a groundwater aquifer. The
17 term includes the quantity of water that is added to the zone of
18 saturation.

19 "Remedial plan." A plan containing all of the elements
20 prescribed under section 301 which includes requirements for
21 assessment and remediation of storm water-related problems.

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

24 "Storm water best management practice" or "Storm water BMP."
25 Activities, facilities, measures or procedures used to protect,
26 maintain, reclaim and restore the quantity and quality of waters
27 and uses within this Commonwealth AS APPROVED BY THE DEPARTMENT. <—

28 The term includes plans under the act of October 4, 1978
29 (P.L.864, No.167), known as the Storm Water Management Act, or
30 other plans, treatment requirements, operating procedures and

1 practices to manage and control the rate, volume and water
2 quality of storm water runoff.

3 "Storm Water Management Act." The act of October 4, 1978
4 (P.L.864, No.167), known as the Storm Water Management Act.

5 "Storm water management plan." A plan for storm water
6 management prepared and adopted by a county in accordance with
7 act of October 4, 1978 (P.L.864, No.167), known as the Storm
8 Water Management Act.

9 "Submitting agency." A county, counties, multiple
10 municipalities or a water resources management authority which
11 elects to develop and submit an integrated water resources
12 management plan, in accordance with the requirements of section
13 401(a), to the Department of Environmental Protection for
14 approval under this act.

15 "Subsurface drainage." Drainage runoff which occurs below
16 the surface of the ground resulting from precipitation or snow
17 or ice melt.

18 "Water resources management authority." A body politic and
19 corporate created under the former act of May 2, 1945 (P.L.382,
20 No.164), known as the Municipality Authorities Act of 1945, 53
21 Pa.C.S. Ch. 56 (relating to municipal authorities) or section
22 501 for the purpose of planning, constructing, operating,
23 maintaining, managing and regulating storm water or integrated
24 water resources management structures, practices and activities.

25 "Water resources management planning." Planning based on
26 watershed areas to protect, maintain, reclaim and restore the
27 quality and quantity of surface water and groundwater and the
28 physical, chemical and biological characteristics of bodies of
29 water from the effects of past and future activities and
30 development while assuring sustainable supplies of clean water

1 to meet current and future needs and minimizing the impact of
2 storm water on public health, safety, property and the
3 environment.

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

6 "Watershed-based planning area." A planning area approved by
7 the Department of Environmental Protection and based on
8 watershed boundaries, as well as political boundaries or
9 geographic considerations, that is the focus of a comprehensive
10 storm water management plan or integrated water resources plan.

11 CHAPTER 2

12 POWERS AND DUTIES

13 Section 201. Powers and duties of counties.

14 (a) Comprehensive storm water management plan.--A county
15 shall ~~have the power and duty to prepare and implement~~ ENSURE <—
16 IMPLEMENTATION OF a comprehensive storm water management plan in
17 accordance with section 301. In addition to any existing powers, <—
18 AND consistent with the requirements of section 401(a), the
19 county may elect to develop or implement an integrated water
20 resources management plan in accordance with Chapter 4.

21 (b) Review and comment.--A county shall ~~have the power and~~ <—
22 ~~duty to~~ review and comment on the location, design and
23 construction within the watershed-based planning area of
24 facilities owned or financed, in whole or in part, by funds from
25 this Commonwealth, including storm water facilities, water
26 obstructions, flood control projects, highways and
27 transportation facilities and facilities for the provision of
28 public utility service, to assure their consistency with the
29 plans developed pursuant to this act. The county shall review
30 and take action on such submissions concurrent with the review

1 period as provided in Article V of the Municipalities Planning
2 Code.

3 (c) Inspection.--In accordance with plans developed under
4 this act, a county shall also ~~have the power and duty to inspect~~ <—
5 ENSURE INSPECTION OF water resources-related facilities, provide <—
6 for routine operation and maintenance of water resources
7 management facilities and construct water resources management
8 facilities.

9 (d) Public comment.--A county shall ~~have the power and duty~~ <—
10 ~~to~~ provide for public comment on all proposed publicly financed
11 water resources capital projects undertaken pursuant to the
12 remedial plan requirements in Chapter 3.

13 (e) Compliance.--Nothing that a county does under this act
14 shall relieve any person engaged in activities or in the
15 alteration or development of land of the responsibility to
16 comply with the requirements of storm water ordinances of
17 municipalities, an approved integrated water resources
18 management plan and the requirements of the Storm Water
19 Management Act, as well as all of the legal requirements of the
20 other programs for which planning will be integrated in an
21 integrated water resources management plan.

22 Section 202. Powers and duties of department and Environmental
23 Quality Board.

24 (a) Department.--The department shall have the power and
25 duty to:

26 (1) Coordinate the management of water resources in this
27 Commonwealth, including the authority to develop guidelines,
28 processes and certification programs for consulting and
29 engineering services.

30 (2) Develop processes and procedures for resolving

1 disputes associated with COMPREHENSIVE STORM WATER integrated <—
2 water resources management planning among county and
3 municipal planning bodies and government agencies concerning
4 plan development or implementation.

5 (3) Develop guidelines and policies to implement the
6 purposes of this act, including specific comprehensive storm
7 water management plan or integrated water resources
8 management plan scope and content requirements, model
9 integrated water resources management plans and model
10 ordinances. The department may prepare and issue such
11 guidelines as may be appropriate to assist in the
12 implementation of this act.

13 (4) Charge REASONABLE fees associated with the review of <—
14 integrated water resources management plans. SUCH FEES SHALL <—
15 REASONABLY REFLECT THE COST OF REVIEW.

16 (5) Approve, disapprove or conditionally approve
17 comprehensive storm water management plans and integrated
18 water resources management plans.

19 (6) Undertake enforcement as necessary and appropriate
20 and in accordance with this act.

21 (7) Take any other action required to carry out the
22 purposes and policies of this act.

23 (8) Upon request of a county or municipality, provide
24 technical assistance appropriate to accomplish the purposes
25 of this act.

26 (b) Other laws.--Nothing in this act shall be construed to
27 abrogate the authority of the department under any of the
28 environmental laws administered by the department.

29 (c) Board.--The Environmental Quality Board shall adopt
30 rules and regulations of the department as are necessary and

1 appropriate to carry out the purposes of this act.

2 Section 203. Powers and duties of municipalities.

3 (a) Implementation of plans.--A municipality or multiple
4 municipalities shall have the power and duty to implement
5 comprehensive storm water management plans and any applicable
6 integrated water resources management plan.

7 (b) Plan.--Consistent with the requirements of section
8 401(a), multiple municipalities may elect to develop an
9 integrated water resources management plan in accordance with
10 Chapter 4.

11 (c) Land development and activities.--Municipalities shall
12 regulate land development and activities consistent with the
13 most recent applicable approved comprehensive storm water
14 management plan or integrated water resources management plan
15 and shall adopt ordinances to implement these plans.

16 (d) Enforcement.--Nothing in this act shall prohibit a
17 municipality or county from enforcing any zoning, subdivision or
18 land development ordinance which the municipality or county has
19 adopted that is not in conflict with plans developed under this
20 act.

21 Section 204. Powers and duties of water resources management
22 authorities.

23 (a) Plan.--Water resources management authorities shall have
24 the power and duty to implement and administer comprehensive
25 storm water management plans when so designated and to implement
26 and administer integrated water resources management plans when
27 so designated.

28 (b) Integrated plan.--Consistent with the requirements of
29 section 401(a), water resources management authorities may elect
30 to develop an integrated water resources management plan in

1 accordance with Chapter 4.

2 (c) Powers and duties.--Water resources management
3 authorities shall have the power and duty to set rates and
4 assess and collect fees to carry out the purposes of this act.

5 (d) Annual report.--Water resources management authorities
6 shall provide an annual report of actions and activities to the
7 department.

8 CHAPTER 3

9 COMPREHENSIVE STORM WATER MANAGEMENT PLANNING

10 Section 301. Comprehensive storm water planning and management
11 requirements.

12 (a) Watershed boundaries.--Comprehensive storm water
13 management plans shall be based on the watershed boundaries
14 described in plans developed in accordance with the Storm Water
15 Management Act, unless an alternate watershed-based planning
16 area is approved by the department for good cause shown.

17 (b) Plans and updates.--Within five years of the effective
18 date of this section, counties shall prepare or update the plans
19 developed in accordance with the Storm Water Management Act and,
20 at a minimum, shall also prepare a remedial plan, which together
21 shall constitute the comprehensive storm water management plan.

22 At a minimum, the remedial plan shall include the following:

23 (1) Identification and assessment of existing problems
24 associated with storm water runoff and subsurface drainage
25 and the conditions that cause or contribute to the problems.

26 (2) Proposed solutions to or remediation of existing
27 problems which take into account peak rates of storm water
28 runoff, the volume and velocity of storm water runoff and the
29 quality of the storm water runoff necessary to prevent
30 pollution and to protect, maintain, reclaim and restore

1 waters of this Commonwealth, including:

2 (i) A remediation and retrofit priorities list.

3 ~~(ii) An implementation plan and prioritized schedule~~ ←
4 ~~for~~

5 (II) A PRIORITIZED SCHEDULE FOR IMPLEMENTATION AND ←
6 COMPLETION OF the remedial plan.

7 (iii) A design of a rate structure for fees and
8 assessments to implement the remedial plan.

9 (iv) A designation of the entity responsible for
10 implementation of the plan and operation and maintenance
11 of remedial infrastructure: the county, municipalities or
12 a water resources management authority.

13 (3) Inventory of significant existing storm water
14 management facilities in the watershed, their engineering
15 design features, their ownership and maintenance
16 responsibility and an assessment of their functional
17 effectiveness.

18 (4) A program for public information, participation and
19 education.

20 (5) Provision for comprehensive storm water management
21 plan review and update at a minimum of every five years.

22 (6) Demonstration of or steps to achieve general
23 consistency with:

24 (i) The applicable comprehensive plans of the
25 municipality and county enacted under the Municipalities
26 Planning Code.

27 (ii) Other existing applicable Federal, State,
28 interstate, regional and county environmental and land
29 use plans.

30 (iii) Existing applicable watershed storm water

1 MANAGEMENT plans, including minimum standards required by <—
2 the Storm Water Management Act.

3 (c) Exception.--Except as provided under this act, the
4 requirements and procedures in sections 6, 7, 8, 9, 10, 11 and
5 12 of the Storm Water Management Act shall be followed in
6 developing the comprehensive storm water management plan under
7 this section. These provisions apply to development and
8 implementation of the applicable plan and implementing ordinance
9 and regulation revisions required by this section.

10 (D) DESIGN CRITERIA AND STANDARDS.--THE COMPREHENSIVE STORM <—
11 WATER MANAGEMENT PLAN SHALL IDENTIFY THE DESIGN CRITERIA OR
12 PERFORMANCE STANDARD FOR ANY STORM WATER MANAGEMENT PRACTICE
13 IMPLEMENTED UNDER THIS SECTION, AND THE COUNTY OR THE DEPARTMENT
14 SHALL HAVE NO RESPONSIBILITY TO REIMBURSE THE COST OF ANY
15 PRACTICE NOT MEETING THE DESIGN CRITERIA OR PERFORMANCE
16 STANDARD.

17 Section 302. Review and approval or disapproval by department.

18 (A) GENERAL RULE.--The department may approve or disapprove <—
19 comprehensive storm water management plans in whole or in part
20 or with conditions that the department determines are reasonable
21 and appropriate.

22 (B) EFFECT OF INACTION BY DEPARTMENT.--UNLESS THE DEPARTMENT <—
23 APPROVES, CONDITIONALLY APPROVES OR DISAPPROVES THE
24 COMPREHENSIVE STORM WATER MANAGEMENT PLAN WITHIN 120 DAYS OF
25 RECEIPT, THE PLAN SHALL BE DEEMED ACCEPTABLE AS SUBMITTED.

26 Section 303. Implementation of comprehensive storm water
27 management plans.

28 (a) Ordinances.--Within ~~six~~ 12 months following adoption and <—
29 approval of a comprehensive storm water management plan, each
30 municipality shall adopt or amend such ordinances and

1 regulations, including zoning, subdivision and development,
2 building code and erosion and sedimentation ordinances,
3 necessary to regulate development and activities and to control
4 storm water within the municipality in a manner consistent with
5 the applicable comprehensive storm water management plan,
6 including the remedial plan to address existing problems, and
7 the provisions of the Storm Water Management Act and this act.

8 (b) Remedial plan.--Following adoption and approval of
9 comprehensive storm water management plans, the responsible
10 entity shall implement the remedial plan.

11 (c) Infrastructure implementation.--Unless otherwise
12 specified in a department-approved and department-adopted
13 comprehensive storm water management plan, infrastructure
14 improvements under the comprehensive storm water management plan
15 may be implemented through any of the following:

16 (1) Each municipality will carry out the plan within its
17 boundaries, either individually or by agreement with another
18 municipality, county or a joint agency.

19 (2) One or more municipalities in the watershed may
20 request that the county or counties in the watershed assume
21 responsibility for implementation of the plan. The county or
22 counties may assume responsibility for implementation of the
23 plan and operational authority for the storm water facilities
24 as provided for in the plan, but only for municipalities that
25 agree to allow the county or counties to assume
26 implementation responsibilities.

27 (3) If two-thirds of the municipalities, representing at
28 least 51% of the population within the watershed, through
29 adoption of resolutions of their governing bodies, request
30 that the county or counties in the watershed assume

1 responsibility for implementation of the plan, then the
2 county or counties shall ~~assume responsibility for all~~ ←
3 ~~municipalities~~. MEET WITH THE MUNICIPALITIES TO DEVELOP A ←
4 PLAN OF IMPLEMENTATION AGREEABLE TO THE COUNTY OR COUNTIES.

5 (d) Responsible entity.--Where the responsible entity fails
6 to timely implement the remedial plan associated with approved
7 and adopted comprehensive storm water management plans, the
8 county ~~shall~~ MAY implement the remedial plan. ←

9 (e) Development of model ordinances.--Within three years of
10 the effective date of this section, the department shall develop
11 a set of model ~~subdivision and land development~~ ordinances, ←
12 including a specific model comprehensive storm water management
13 ordinance, that can be used as a guide by municipalities to
14 adopt regulations designed to implement the applicable
15 comprehensive storm water management plan.

16 (f) Waiver provisions.--The implementing ordinances and
17 regulations shall not contain a waiver provision except for
18 those waivers included in the model ordinance in the adopted and
19 approved comprehensive storm water management plan.

20 (g) Decisions.--The department, other Commonwealth
21 departments and agencies and county and municipal governments
22 and agencies shall consider and shall make decisions with
23 respect to issuance of permits, approvals or grants that are
24 generally consistent with comprehensive storm water management
25 plans prepared, adopted and approved under this act.

26 (h) Review and issuance procedures.--The department shall
27 develop procedures to coordinate the review and issuance of all
28 department permits, approvals or grants that cover construction,
29 operation and maintenance of all current and future facilities
30 that are necessary to implement the comprehensive storm water

1 management plans, including the designation of a single point of
2 contact for all department permits or approvals for the
3 facilities.

4 (I) CONSTRUCTION.--NOTHING IN THIS ACT SHALL BE CONSTRUED TO <—
5 RELIEVE A COUNTY OR MUNICIPALITY FROM COMPLIANCE WITH EXISTING
6 OBLIGATIONS UNDER THE STORM WATER MANAGEMENT ACT.

7 Section 304. Failure to submit OR IMPLEMENT comprehensive storm <—
8 water management plan.

9 (a) Actions.--~~Any person~~ A MUNICIPALITY OR THE DEPARTMENT <—
10 may institute an action in mandamus to compel a county to
11 prepare, adopt ~~and submit~~, SUBMIT OR IMPLEMENT a comprehensive <—
12 storm water management plan in accordance with the Storm Water
13 Management Act and this act.

14 (b) Administrative remedies.--The department may utilize
15 administrative remedies, including administrative orders, or may
16 institute an action in mandamus to compel a county to prepare,
17 adopt ~~and submit~~, SUBMIT OR IMPLEMENT a comprehensive storm <—
18 water management plan in accordance with the Storm Water
19 Management Act and this act.

20 (c) Reimbursement.--When action by the ~~department or any~~ <—
21 ~~other entity~~ MUNICIPALITY OR DEPARTMENT is required to compel a <—
22 county to prepare, ~~adopt and submit~~ ADOPT, SUBMIT OR IMPLEMENT a <—
23 plan, the department shall not provide grants or reimbursements
24 to the county for the cost of the plan.

25 (d) Costs and fees.--The costs, attorney fees,
26 administrative fees and other expenses associated with
27 proceedings under this section shall be recoverable from the
28 violator.

29 Section 305. Failure of municipalities to adopt ordinances and
30 implement plans.

1 (a) Procedure following approval.--Following adoption and
2 approval of a comprehensive storm water management plan:

3 (1) Any person may institute an action in mandamus to
4 compel a municipality to adopt implementing ordinances and to
5 implement a comprehensive storm water management plan and
6 ordinances in accordance with the Storm Water Management Act
7 and this act.

8 (2) The county or the department may utilize
9 administrative remedies, including administrative orders, or
10 may institute an action in mandamus to compel a municipality
11 to adopt ordinances or to implement a comprehensive storm
12 water management plan in accordance with the Storm Water
13 Management Act and this act.

14 (3) When action by the county, the department or any
15 person is required to compel a municipality to adopt
16 ordinances or to implement a comprehensive storm water
17 management plan, the department shall not provide grants or
18 reimbursements to the municipality for the associated costs.

19 (b) Costs and fees.--The costs, attorney fees,
20 administrative fees and other expenses associated with
21 proceedings under this section shall be recoverable from the
22 violator.

23 CHAPTER 4

24 INTEGRATED WATER RESOURCES MANAGEMENT

25 PLANNING AND PROCEDURE

26 Section 401. Water resources management coordination and
27 integration.

28 (a) Submitting agency.--A county or multiple counties may
29 elect to develop integrated water resources management plans. If
30 a county or counties have not provided notice to the department

1 of the intention to develop an integrated water resources
2 management plan, then multiple municipalities or water resources
3 management authorities located in such counties may elect to
4 develop integrated water resources management plans in
5 accordance with this act, beginning one year from the effective
6 date of this act.

7 (b) Plans.--Integrated water resources management plans may
8 be developed for individual or multiple watersheds, or upon
9 department-approved watershed-based planning areas, designated
10 in accordance with, but not limited to, the following
11 considerations:

12 (1) Existence of critical water planning areas.

13 (2) Waters listed pursuant to 33 U.S.C. § 1313(d)
14 (relating to water quality standards and implementation
15 plans).

16 (3) Flooding history.

17 (4) Special protection watersheds.

18 (5) Current or projected population density.

19 (6) Current or projected rate of development.

20 (7) Percent of impervious cover.

21 (c) Minimum requirements.--Integrated water resources
22 management plans shall, at a minimum, be consistent with this
23 act and the following statutes:

24 (1) The Federal Water Pollution Control Act (62 Stat.
25 1155, 33 U.S.C. § 1251 et seq.).

26 (2) The Safe Drinking Water Act (Public Law 93-523, 21
27 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f et seq.).

28 (3) The Clean Streams Law.

29 (4) The act of May 1, 1984 (P.L.206, No.43), known as
30 the Pennsylvania Safe Drinking Water Act.

- 1 (5) The Storm Water Management Act.
- 2 (6) The act of October 4, 1978 (P.L.851, No.166), known
3 as the Flood Plain Management Act.
- 4 (7) The act of January 24, 1966 (1965 P.L.1535, No.537),
5 known as the Pennsylvania Sewage Facilities Act.
- 6 (8) The act of November 26, 1978 (P.L.1375, No.325),
7 known as the Dam Safety and Encroachments Act.
- 8 (9) The Water Resources Development Act of 1986 (Public
9 Law 99-662, 33 U.S.C. § 2213(j)).
- 10 (10) The act of June 24, 1939 (P.L.842, No.365),
11 referred to as the Water Rights Law.
- 12 (11) The act of May 15, 1945 (P.L.547, No.217), known as
13 the Conservation District Law.
- 14 (12) The Municipalities Planning Code.
- 15 (13) The Municipality Authorities Act.
- 16 (14) The provisions of 3 Pa.C.S. Ch. 5 (relating to
17 nutrient management and odor management).
- 18 (15) Any other applicable Federal or State law as
19 determined by the department.
- 20 (d) Entities.--Entities which elect to undertake integrated
21 water resources management planning shall do so in accordance
22 with this act.
- 23 (e) Compliance.--If an entity elects to undertake integrated
24 water resources management planning and the plan is approved by
25 the department in accordance with this act, the entity is deemed
26 to have satisfied the procedural and substantive planning
27 requirements of the acts listed in subsection (c) that impose
28 planning requirements.
- 29 Section 402. Integrated water resources management planning
30 process.

1 (a) Boundaries.--Integrated water resource management plans
2 shall be based upon the boundaries described in plans developed
3 in accordance with ~~the Storm Water Management Act~~ SECTION ←
4 401(B), unless an alternate watershed-based planning area is
5 approved by the department for good cause shown.

6 (b) Development.--Public participation in the development of
7 the integrated water resources management plan shall be provided
8 as follows:

9 (1) An integrated water resources management plan
10 advisory committee, composed of one representative appointed
11 by the governing body of each municipality in the WATERSHED- ←
12 BASED planning area ~~watershed~~, the county and any county ←
13 conservation district in the planning area watershed, any
14 compact basin commission in the planning area watershed and
15 other agencies and groups, as are necessary and proper, shall
16 be established to advise the submitting agency throughout the
17 process.

18 (2) Prior to adoption, the plan shall be reviewed by the
19 official planning agency, IF ONE EXISTS, and governing body ←
20 of each municipality and county and by each regional planning
21 agency in the watershed for general consistency with other
22 plans and programs affecting the ~~watershed~~ WATERSHED-BASED ←
23 PLANNING AREA. All such reviews and the submitting agency's
24 responses shall be submitted to the department with the plan
25 at the time a review of the plan is requested from the
26 department.

27 (3) Prior to adoption or amendment of the plan,
28 reasonable public notice shall be given at least 14 days
29 prior to the hearing, and a public hearing shall be held
30 within the watershed-based planning area.

1 (c) Adoption.--Adoption or amendment by the submitting
2 agency of the integrated water resources management plan shall
3 be by resolution of the governing body or bodies of the agency
4 or agencies identified in subsection (b), which have authorized
5 development of the plan.

6 (d) Approval by department.--The following shall apply:

7 (1) Prior to adoption or substantive amendment, the
8 submitting agency shall submit the integrated water resources
9 management plan to the department for review. The department
10 shall approve or conditionally approve the plan if it
11 determines that it is generally consistent with the
12 following:

13 (i) Section 401(c).

14 (ii) All current approved watershed restoration and
15 protection plans that have been developed in the planning
16 area.

17 (iii) All current approved total maximum daily loads
18 (TMDLs) for waters of the planning area.

19 (iv) All current source water protection plans that
20 have been adopted in the planning area.

21 (v) All current rivers conservation plans in the
22 watershed-based planning area that have been approved by
23 the Department of Conservation and Natural Resources.

24 (vi) All current critical area resource plans that
25 have been approved by the department.

26 (vii) All current applicable water resources plans
27 adopted by a river basin commission.

28 (2) Unless the department approves, conditionally
29 approves or disapproves the integrated water resources
30 management plan within 120 days of receipt, the plan will be

1 deemed acceptable as submitted.

2 (3) If the department determines that the proposed
3 integrated water resources management plan will not meet the
4 requirements of this act, the department will disapprove the
5 plan in writing, WHICH WRITING SHALL IDENTIFY THE BASIS FOR ←
6 DISAPPROVAL.

7 (4) The integrated water resources management planning
8 area, either based upon the boundaries described in plans
9 developed in accordance with the Storm Water Management Act
10 or an alternate watershed-based planning area approved by the
11 department, shall be considered a reasonable geographic area
12 in a multimunicipal comprehensive plan prepared pursuant to
13 Article XI of the Municipalities Planning Code as long as the
14 county or multiple municipalities follow the procedures in
15 Article XI of the Municipalities Planning Code.

16 (E) DESIGN CRITERIA AND STANDARDS.--THE INTEGRATED WATER ←
17 MANAGEMENT PLAN SHALL IDENTIFY THE DESIGN CRITERIA OR
18 PERFORMANCE STANDARD FOR ANY WATER MANAGEMENT PRACTICE
19 IMPLEMENTED UNDER THIS SECTION, AND THE COUNTY OR THE DEPARTMENT
20 SHALL HAVE NO RESPONSIBILITY TO REIMBURSE THE COST OF ANY
21 PRACTICE NOT MEETING THE DESIGN CRITERIA OR PERFORMANCE
22 STANDARD.

23 Section 403. Integrated water resources management plan
24 requirements.

25 (a) Local authorization.--The following shall apply:

26 (1) The submitting agency may develop an integrated
27 water resources management plan as described in this section.
28 If all counties or municipalities in the watershed do not
29 agree to develop the plan, the plan shall use standards at
30 the boundaries of the nonparticipating county or

1 municipalities that are consistent with the integrated water
2 resources management plan.

3 (2) Federal lands shall be included in the integrated
4 water resources management plan in consultation with the
5 United States Department of the Interior.

6 (3) State lands shall be included in the integrated
7 water resources management plan in consultation with the
8 appropriate State agency.

9 (4) The integrated water resources management plan shall
10 be generally consistent with comprehensive plans of counties
11 and municipalities enacted under the Municipalities Planning
12 Code.

13 (5) A comprehensive plan of a county or a municipality
14 enacted under the Municipalities Planning Code, subsequent to
15 adoption of this act, shall be generally consistent with the
16 integrated water resources management plan approved under
17 this act that applies to the county or municipality.

18 (6) An integrated water resources management plan
19 adopted on a multimunicipal basis pursuant to this act shall
20 constitute the water planning required pursuant to section
21 301(a)(4) of the Municipalities Planning Code and shall be
22 considered a plan for the reliable supply of water pursuant
23 to section 301(b) of the Municipalities Planning Code if it
24 is a component of a multimunicipal comprehensive plan
25 prepared pursuant to Article XI of the Municipalities
26 Planning Code, as long as the county or multiple
27 municipalities follow the procedures in Article XI of the
28 Municipalities Planning Code.

29 (b) Plan content.--The integrated water resources management
30 plan, at a minimum, shall:

1 (1) Coordinate the planning provisions in and
2 demonstrate consistency with Federal and State statutes and
3 programs identified in section 401(a).

4 (2) Delineate the approved ~~watershed~~ WATERSHED-BASED ←
5 planning area boundary.

6 (3) Inventory all existing and planned water and
7 wastewater treatment systems and service areas and all
8 significant water resources management facilities within the
9 watershed, their ownership and the parties responsible for
10 their operation and maintenance and provide an assessment of
11 the functional effectiveness of such systems and facilities.

12 (4) Estimate current and future water demands.

13 (5) Identify all local conservation areas such as
14 protected riparian corridors, conservation easements,
15 wellhead and source water protection areas, preserved
16 farmland, greenways, publicly owned land and other areas that
17 have land-use restrictions based on natural conditions.

18 (6) Identify all environmentally sensitive features of
19 the watershed, such as wetlands, habitat for rare and
20 endangered plant and animal species, special protection
21 waters and karst geology.

22 (7) Identify and consider all current storm water
23 management and watershed protection and restoration plans
24 that have been prepared by citizen groups, nonprofit
25 organizations, conservation districts, county and municipal
26 governments and Federal, State, interstate or regional
27 agencies.

28 (8) Identify and describe all existing regionally
29 significant water quality problems and water resources
30 management problems within the watershed, including those

1 caused by domestic or industrial wastewater, nonpoint sources
2 of pollution, water availability and storm water and
3 floodplain management problems.

4 (9) Project future land-use changes over a ten-year
5 period based on population estimates, anticipated
6 development, planning and zoning requirements, economic
7 considerations and public infrastructure.

8 (10) Identify and evaluate alternatives for future water
9 demands, including water supply and wastewater demands.

10 (11) Identify, evaluate and prioritize ~~structural,~~ ←
11 ~~nonstructural and institutional strategies to address~~
12 ~~existing water quality and water resources management~~
13 ~~problems and anticipated land use changes based on future~~
14 ~~growth projections. The analysis must include, but not be~~
15 ~~limited to, the following considerations:~~

16 (i) ~~Low impact development techniques.~~

17 (ii) ~~A common storm water flow standard.~~

18 (iii) ~~A storm water infiltration standard for~~
19 ~~groundwater recharge based on water balance.~~

20 (iv) ~~Floodplain and floodway development~~
21 ~~restrictions and restoration.~~

22 (v) ~~Riparian corridor protection.~~

23 MANAGEMENT PRACTICES, PROCEDURES AND OTHER STRATEGIES TO ←
24 PROTECT, MAINTAIN, RECLAIM OR RESTORE WATER QUALITY AND WATER
25 RESOURCES BASED ON EXISTING CONDITIONS AND PROJECTED GROWTH
26 AND LAND USE CHANGES.

27 (12) Identify the entity responsible for operating and
28 maintaining water quality protection and water resources
29 management facilities, such as wastewater treatment plants
30 and community or individual storm water control facilities.

1 (13) Identify and evaluate potential water conservation
2 and reuse measures.

3 (14) Identify and evaluate source water protection
4 alternatives.

5 (15) Identify financing alternatives, including rate
6 structures for fees and assessments to implement the plan.

7 (16) Present selected financing methods and priorities.

8 (17) Present a prioritized schedule and process for plan
9 implementation.

10 (18) Establish a program for public participation,
11 information and education.

12 (19) Provide for plan reviews and updates on a minimum
13 five-year cycle.

14 (20) Provide model ordinances for plan implementation.

15 (c) Additional issues.--The integrated water resources
16 management plans may also address additional issues, including
17 the following:

18 (1) Preventing increased flood stages in streams.

19 (2) Controlling the quantity, peak and volume,
20 direction, rate and velocity of storm water runoff and
21 subsurface drainage and the quality thereof consistent with
22 State water quality standards.

23 (3) Improving groundwater recharge.

24 (4) Maximizing the opportunities for integration of
25 water resources management and protection under the existing
26 laws and regulations.

27 (5) Create water resources management corridors PURSUANT <—
28 TO SECTION 405.

29 (6) Support ecologically sustainable water management,
30 sustainable water supplies, water conservation, surface and

1 groundwater management, development of resource strategies,
2 providing for long-term infrastructure investment strategies,
3 evaluating environmental impacts and options and evaluating
4 economic impacts and options.

5 Section 404. Implementation of integrated water resources
6 management plans.

7 (a) Requirements.--Within 180 days of the department's
8 approval of an integrated water resources management plan, each
9 county and municipality within the area subject to the plan
10 shall:

11 (1) Adopt or amend ordinances and regulations, including
12 zoning, subdivision and development, building code, erosion
13 and sedimentation and storm water ordinances, as are
14 necessary to regulate development and local activities in a
15 manner consistent with the applicable approved plan and the
16 provisions of this act.

17 (2) Implement ordinances and regulations, including
18 zoning, subdivision and development, building code, erosion
19 and sedimentation and storm water ordinances, as are
20 necessary to regulate development and local activities in a
21 manner consistent with the applicable approved plan and the
22 provisions of this act.

23 (b) Infrastructure implementation.--Infrastructure
24 improvements under an integrated water resources management plan
25 may be implemented through any of the following:

26 (1) A municipality will carry out the plan within its
27 boundaries, either individually or by agreement with another
28 municipality or county or a joint agency.

29 (2) One or more municipalities in the watershed may
30 request that the county or counties in the watershed assume

1 responsibility for implementation of the plan. The county or
2 counties may assume responsibility for implementation of the
3 plan and operational authority for the water resources
4 management facilities provided for in the plan, but only for
5 municipalities that agree to allow the county or counties to
6 assume implementation responsibilities.

7 (3) If two-thirds of the municipalities, representing at
8 least 51% of the population within the watershed, through
9 adoption of resolutions of their governing bodies, request
10 that the county or counties in the watershed assume
11 responsibility for implementation of the plan, then the
12 county or counties shall ~~assume responsibility for all~~ ←
13 ~~municipalities.~~ MEET WITH THE MUNICIPALITIES TO DEVELOP A ←
14 PLAN OF IMPLEMENTATION AGREEABLE TO THE COUNTY OR COUNTIES.

15 (c) Development of model ordinances.--Within 180 days of the
16 effective date of this section, the department will develop a
17 set of model ~~subdivision and land development~~ ←
18 ordinances, including a specific model integrated water resources management
19 ordinance, that can be used as a guide by local governments to
20 adopt regulations designed to implement their integrated water
21 resources management plan.

22 (d) Waiver.--The implementing ordinances and regulations
23 shall not contain a waiver provision except for those waivers
24 included in the model ordinance in the adopted and approved
25 integrated water resources management plan.

26 (e) Permits, approvals or grants.--The department, other
27 Commonwealth departments and agencies and county and municipal
28 governments and agencies shall consider and shall make decisions
29 with respect to issuance of permits, approvals or grants that
30 are generally consistent with integrated water resources

1 management plans adopted under this act.

2 (f) Review and issuance procedures.--The department shall
3 develop procedures to coordinate the review and issuance of all
4 department permits, approvals or grants that cover construction,
5 operation and maintenance of all current and future facilities
6 that are necessary to implement the integrated water resources
7 management plans, including the designation of a single point of
8 contact for all department permits or approvals for such
9 facilities.

10 (g) County implementation.--Where the responsible entity
11 fails to timely implement the approved and adopted integrated
12 water resources management plan, the county ~~shall~~ MAY implement <—
13 the approved integrated water resources management plan.

14 Section 405. Water resources management corridors.

15 (a) Additional limitations.--Integrated water resources
16 management plans may ~~designate~~ ESTABLISH water resources <—
17 management corridors to provide additional limitations on
18 activities and development for protection of waters of this
19 Commonwealth, and in the interest of public health and safety,
20 those designated as special protection under the department's
21 rules and regulations, critical riparian areas, wetlands,
22 critical habitat areas and floodplain management areas.

23 (b) Protection of corridors.--The submitting agency shall
24 ensure that ~~designated~~ water resources management corridors are <—
25 protected through acquisition, easements, trusts or other
26 appropriate legal instruments that guarantee forested buffering,
27 building setbacks and reasonable and appropriate public access.

28 (c) Adjacent watersheds.--Development of integrated water
29 resources management plans established for adjacent watersheds,
30 which contain water resources management corridors, shall be

1 coordinated by submitting agencies to ensure consistency between
2 ~~designated~~ water resources management corridors. <—

3 Section 406. Failure of municipalities to adopt implementing
4 ordinances.

5 (a) Procedures.--Following adoption and approval of an
6 integrated water resources management plan:

7 (1) ~~Any person~~ A COUNTY OR THE DEPARTMENT may institute <—
8 an action in mandamus to compel a municipality to adopt
9 implementing ordinances and to implement an integrated water
10 resources management plan and ordinances in accordance with
11 this act.

12 (2) The county or department may utilize administrative
13 remedies, including administrative orders, or may institute
14 an action in mandamus to compel a municipality to adopt
15 ordinances or to implement an integrated water resources
16 management plan in accordance with this act.

17 (3) When action by the county or department or any
18 person is required to compel a municipality to adopt
19 ordinances or to implement an integrated water resources
20 management plan, the department shall not provide grants or
21 reimbursements to the municipality for the associated costs.

22 (b) Costs and fees.--The costs, attorney fees and
23 administrative fees and other expenses associated with
24 proceedings under this section shall be recoverable from the
25 violator.

26 CHAPTER 5

27 WATER RESOURCES MANAGEMENT AUTHORITIES

28 Section 501. Water resources management authorities.

29 (a) Authorities.--A county or multiple counties may elect to
30 create a water resources management authority to undertake

1 powers and duties as may be delegated by the incorporating
2 municipality pursuant to this act. If a county or counties have
3 not provided notice to the department of the intention to create
4 a water resources management authority, multiple municipalities
5 located in a county or counties may create a water resources
6 management authority in accordance with this act, beginning one
7 year from the effective date of this section.

8 (b) Creation of water resources management authorities.--A
9 county or multiple counties or multiple municipalities which
10 have assumed or plan to assume responsibility for the
11 development, implementation and administration of comprehensive
12 storm water management plans or an integrated water resources
13 management plan shall have the right to incorporate as a water
14 resources management authority pursuant to 53 Pa.C.S. Ch. 56
15 (relating to municipal authorities) for the purposes set forth
16 under 53 Pa.C.S. § 5607 (relating to purposes and powers)
17 relating to projects of the kind and character set forth below:

18 (1) Comprehensive storm water planning, collection,
19 treatment, remedial plan implementation and infrastructure
20 management and parts thereof, including regulation, operation
21 and maintenance, repair, replacement, reconstruction and
22 expansion pursuant to the Storm Water Management Act and this
23 act.

24 (2) Integrated water resources management in accordance
25 with plans adopted and approved under this act.

26 (c) Transfer of authority and obligation to operate and
27 maintain water resources management best management practices to
28 water authorities.--Transfer of authority shall be conducted as
29 follows:

30 (1) The authority and obligation to operate and maintain

1 water resources management best management practices,
2 including comprehensive storm water management or integrated
3 water resources management best management practices on
4 private lands, may be transferred to the county or water
5 resources management authority at their discretion. Whether
6 transferred or not, the operation and maintenance shall be
7 consistent with the design standards, criteria, schedules and
8 other requirements established under the comprehensive storm
9 water management or integrated water resources management
10 plans.

11 (2) All transferred obligations shall be subject to an
12 easement for maintenance and inspection access.

13 Section 502. Additional powers and duties of water resources
14 management authorities.

15 (a) Exceptions.--Except as provided by this act, the
16 requirement and procedures in 53 Pa.C.S. § 5607 (relating to
17 purposes and powers) shall be followed in developing the rates
18 and fees and the process for assessing and collecting such fees.

19 (b) Fee authorization.--In addition to the authority
20 provided in 53 Pa.C.S. § 5607, the water resources management
21 authority may levy a fee on property owners, users or consumers
22 of the services provided by the authority to pay for all costs
23 associated with planning, implementation, administration and
24 enforcement under the Storm Water Management Act or this act,
25 and including the authority to:

26 (1) Fix, alter, charge and collect fees in the area
27 served by the county and the associated planning area, as
28 determined exclusively by the county, in order to carry out
29 the powers and duties authorized under this act, including
30 preparation of integrated water resources management plans

1 and their implementation and the acquisition or construction
2 of storm water or water resources management facilities in
3 the watershed or watershed-based planning area. The fee may
4 be based, in whole or in part, as a user or service fee,
5 special assessment fee, impact fee, bonding or other fee for
6 services which reflect the implementation of the
7 comprehensive storm water management plan or integrated water
8 resources management plan.

9 (2) Collect delinquent fees in accordance with the act
10 of May 16, 1923 (P.L.207, No.153), referred to as the
11 Municipal Claim and Tax Lien Law.

12 (3) Borrow money, make and issue negotiable notes,
13 bonds, refunding bonds and other evidences of indebtedness or
14 bonds of the agency which may not have a maturity date longer
15 than 40 years from the date of issue.

16 (4) Secure payment of the bonds or any part thereof by
17 pledge or deed of trust of all or any of its revenues and
18 receipts and make agreements with the purchasers or holders
19 of bonds or with others in connection with any bonds, whether
20 issued or to be issued.

21 (5) Use any available Federal or State funds, and any
22 other funds, and set up accounts as necessary to implement
23 the provisions of this act.

24 (6) Include in the rate or fee structure costs
25 associated with planning, design, construction and operation
26 of capital facilities, including the development of
27 maintenance schedules.

28 (7) Receive impact fees or participation costs and
29 maintenance bonds or other contributions related to provision
30 of water resources management services.

1 (c) Reimbursement of implementation and maintenance costs.--

2 The following shall apply to reimbursement:

3 (1) A county or municipality shall be reimbursed by the
4 water resources management authority for reasonable costs
5 that support the comprehensive storm water management plan or
6 integrated water resources plan implementation,
7 administration and maintenance under subsection (b)(1) and
8 (2).

9 (2) Reimbursement shall not include costs related to
10 sanitary sewage facilities.

11 (3) The water resources management authority shall have
12 the right to audit the county's or municipalities' costs of
13 implementation and maintenance for which reimbursement is
14 sought.

15 (4) Nothing in this section shall be construed to limit
16 or impair application of this act to any county, municipality
17 or person, or to relieve any county, municipality or person
18 of duties required under this act, including preparation and
19 implementation of plans.

20 (d) Design criteria and standards.--The comprehensive storm
21 water management plan or integrated water resources management
22 plan shall identify the design criteria or performance standard
23 for any storm water management practice implemented under this
24 section, and the county shall have no responsibility to
25 reimburse the cost of any practice not meeting the design
26 criteria or performance standard.

27 (e) Maintenance of storm water practices or integrated water
28 resources management facilities.--Continuing maintenance of
29 storm water or water resources management practice shall be the
30 responsibility of the water resources management authority

1 implementing the practice under subsection (b)(1) and (2) unless
2 there is specific agreement otherwise between the authority and
3 the implementing party.

4 (f) Objections.--Any resident, owner of real property or
5 person in the plan area questioning the rate or fees fixed by
6 the county, including extensions of service thereof, shall first
7 raise such objections with the county or the water resources
8 management authority, as the case may be. After exhausting their
9 administrative remedies, persons may bring suit against the
10 water resources management authority or county in the court of
11 common pleas of the county in which the principal office of the
12 water resources management authority is located.

13 CHAPTER 6

14 RIGHTS, REMEDIES, FUNDING AND ENFORCEMENT

15 Section 601. Duty of persons engaged in development of land.

16 Any landowner and any person engaged in any activity,
17 alteration or development of land which may affect water
18 resources or storm water runoff characteristics shall:

19 (1) Manage rate, volume, velocity and quality of runoff
20 so as to prevent pollution to waters of this Commonwealth as
21 defined in The Clean Streams Law.

22 (2) Implement such measures consistent with the
23 provisions of the comprehensive storm water management plan
24 or integrated water resources plan, or both if applicable, as
25 are reasonably necessary to protect, maintain, reclaim and
26 restore waters of this Commonwealth and to prevent injury to
27 health, safety or other property.

28 Section 602. Funding and imposing fees on tax-exempt property.

29 (a) General rule.--Except as provided under subsection (b),
30 real property that is exempt from the payment of real estate tax

1 shall be subject to the fees and charges imposed in accordance
2 with this act.

3 (b) Exempt property.--The following property shall be exempt
4 from the fees imposed by this act:

5 (1) Property owned by a political subdivision, county or
6 municipality.

7 (2) Property owned by an authority.

8 Section 603. Entry upon land for surveys and examinations.

9 (a) Representatives.--Designated representatives of the
10 Commonwealth or a county, municipality or authority, upon
11 serving a reasonable notice and with the authorization of the
12 landowner or occupier, may enter upon lands in the plan area to
13 make surveys and examinations to accomplish the planning
14 purposes of this act.

15 (b) Inspections.--The department is authorized to make
16 inspections, conduct tests or sampling or examine books, papers
17 and records pertinent to any matter under investigation pursuant
18 to this act as it deems necessary to determine compliance with
19 this act, and, for this purpose, the duly authorized agents and
20 employees of the department are authorized at all reasonable
21 times to enter and examine any property, facility, operation or
22 activity.

23 (c) Agents and employees.--The owner, operator or other
24 person in charge of property, facility, operation or activity,
25 upon presentation of proper identification and purpose for
26 inspection by the agents or employees of the department, shall
27 give agents and employees free and unrestricted entry and
28 access, and, upon refusal to grant entry or access, the agent or
29 employee may obtain a search warrant or other suitable order
30 authorizing entry and inspection. It shall be sufficient

1 probable cause to issue a search warrant authorizing examination
2 and inspection if there is probable cause to believe that the
3 object of the investigation is subject to regulation under this
4 act and access, examination or inspection is necessary to
5 enforce the provisions of this act.

6 Section 604. Preservation of existing rights and remedies.

7 The taking of any action under the provisions of this act
8 shall not be construed as estopping the Commonwealth or any
9 county, municipality or aggrieved person from proceeding in
10 courts of law or equity to abate nuisances under existing law or
11 to restrain, at law or in equity, a violation of this act.

12 Section 605. Civil remedies.

13 (a) Public nuisance.--Any activity conducted in violation of
14 the provisions of this act or of any comprehensive storm water
15 management plan or integrated water resources management plan or
16 regulations or ordinances adopted under this act is hereby
17 declared a public nuisance.

18 ~~(b) Actions. Suits to restrain, prevent or abate violations~~ <—

19 (B) ACTIONS.-- <—

20 (1) SUITS TO RESTRAIN, PREVENT OR ABATE VIOLATIONS of
21 this act or of any comprehensive storm water management plan
22 ~~or~~, integrated water resources management plan, regulations <—
23 or ordinances adopted under this act may be instituted in
24 equity or at law by the department, any affected county or
25 municipality or any aggrieved person in any court of
26 competent jurisdiction. ~~Except in cases of emergency where,~~ <—
27 ~~in the opinion of the court,~~

28 (2) EXCEPT IN CASES OF EMERGENCY WHERE, IN THE OPINION <—
29 OF THE COURT, the circumstances of the case require immediate
30 abatement of the unlawful conduct, the court may, in its

1 decree, fix a reasonable time during which the person
2 responsible for the unlawful conduct shall correct or abate
3 the conduct. ~~Damages and the expense, including~~ ←
4 ~~administrative costs and legal fees, of such proceedings~~
5 ~~shall be recoverable from the violator in a manner as may now~~
6 ~~or hereafter be provided by law.~~

7 (3) THE COSTS, ATTORNEY FEES, ADMINISTRATIVE FEES AND ←
8 OTHER EXPENSES ASSOCIATED WITH PROCEEDING UNDER THIS SECTION
9 SHALL BE RECOVERABLE FROM THE VIOLATOR.

10 (c) Any person injured by conduct which violates the
11 provisions of this act may, in addition to any other remedy
12 provided under this act, recover damages caused by a violation
13 from the landowner or other responsible person.

14 Section 606. Administrative procedure and judicial review.

15 (a) Appeal of action of department.--Any person aggrieved by
16 any action of the department under this act shall have the right
17 within 30 days of receipt of notice of such action to appeal to
18 the Environmental Hearing Board.

19 (b) Appeal of action of political subdivision.--Any person
20 aggrieved by any action of a county, municipality or water
21 resources management authority under this act shall have a right
22 to appeal in accordance with 2 Pa.C.S. Chs. 5 (relating to
23 practice and procedure) and 7 (relating to judicial review).

24 Section 607. Integrated Water Resources Management Account.

25 All fees collected by the department under this act shall be
26 paid into the State Treasury into a special restricted receipt
27 account in the General Fund, known as the Integrated Water
28 Resources Management Account, which shall be administered by the
29 department to implement the purposes of this act and which funds
30 are hereby appropriated to the Department of Environmental

1 Protection for such purposes.

2 Section 608. Grants and reimbursements.

3 (a) Grants.--The department may administer grants to
4 counties and water resources management authorities to assist or
5 reimburse the counties AND THE WATER RESOURCES MANAGEMENT ←
6 AUTHORITIES for allowable costs in preparing comprehensive storm
7 water management plans and integrated water resources management
8 plans under this act. Grants and reimbursements shall be made
9 from, and to the extent of, funds appropriated by the General
10 Assembly for such purposes and shall be made in accordance with
11 rules and regulations promulgated by the Environmental Quality
12 Board no later than two years from the effective date of this
13 section.

14 (b) Limitation.--The grants shall not exceed 75% of the
15 allowable costs for the preparation of a comprehensive storm
16 water management plan or integrated water resources management
17 plan under this act, by any county or authority.

18 (c) State grants.--For purposes of this section, State
19 grants shall be in addition to grants for similar purposes made
20 to any county or authority by the Federal Government, provided
21 that the grants authorized by this section shall be limited such
22 that the total of all Federal and State grants does not exceed
23 75% of the allowable costs incurred by the county or water
24 resources management authority.

25 (d) Applicability.--Nothing in this section shall be
26 construed to impair or limit application of this act to any
27 municipality, county, water resources management authority or
28 person or to relieve any municipality, county, water resources
29 management authority or person of duties imposed under this act.

30 (e) Report by department.--If, in any fiscal year,

1 appropriations are insufficient to cover the costs or grants and
2 reimbursement to all municipalities, counties and water
3 resources management authorities eligible for grants and
4 reimbursements in that fiscal year, the department shall report
5 that fact to the General Assembly and shall request
6 appropriation of funds necessary to provide the grants and
7 reimbursements authorized under this section. If a deficiency
8 appropriation is not enacted, any municipality, county or water
9 resources management authority which has not received the full
10 amount of the grant or reimbursement for which it is eligible
11 under this section shall be, as a first priority, reimbursed
12 from appropriations made in the next successive fiscal year.

13 (f) Reimbursement of expenses.--Municipalities located in
14 watershed-based planning areas for which storm water management
15 or integrated water resources plans have been prepared and
16 adopted by counties and approved by the department shall be
17 eligible annually for reimbursement for net expenses incurred in
18 the adoption or revision of ordinances or regulations and other
19 actual administrative, enforcement and implementation costs
20 incurred in complying with this act and the applicable approved
21 plan.

22 Section 609. Waiver of use of grant and loan funds.

23 A municipality, county or authority receiving grants or loans
24 from the Commonwealth or its agencies for the construction or
25 repair of any storm water BMP or flood control projects where
26 the Commonwealth's funds are restricted from paying for the
27 acquisition of property, a right-of-way or property removal or
28 demolition necessary for the completion of a project may receive
29 a waiver to spend up to 5% of the grant or loan for these
30 activities upon the approval of the appropriate Commonwealth

1 agency.

2

CHAPTER 7

3

MISCELLANEOUS PROVISIONS

4 Section 701. Repeals.

5 (a) Intent.--The General Assembly declares that the repeal
6 under subsection (b) is necessary to effectuate the addition of
7 this act.

8 (b) Provision.--Sections 9(b) and 14(b) of the act of
9 October 4, 1978 (P.L.864, No.167), known as the Storm Water
10 Management Act, are repealed.

11 (c) General.--All other acts and parts of acts are repealed
12 insofar as they are inconsistent with this act.

13 Section 702. Effective date.

14 This act shall take effect in 60 days.