

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1449 Session of
2008

INTRODUCED BY MADIGAN, BRUBAKER, WAUGH, VANCE, CORMAN, PUNT,
RAFFERTY, ORIE, FUMO, O'PAKE, BOSCOLA, RHOADES, MUSTO,
GORDNER AND PICCOLA, JUNE 11, 2008

SENATOR BRUBAKER, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED,
JUNE 17, 2008

AN ACT

1 Establishing the Fair Share Nutrient Reduction Program <—
2 ASSISTANCE PROGRAM FOR FARMERS; providing funding for <—
3 ~~wastewater treatment plants and farmers to meet nutrient~~ <—
4 ~~reduction mandates; creating a Nutrient Reduction Trading~~ <—
5 ~~Board and Program and providing for its power and duties;~~
6 providing for a resource enhancement and protection tax
7 credit; and providing supplemental funding for the Department
8 of Agriculture and the State Conservation Commission.

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

11 Section 1. Short title.

12 This act shall be known and may be cited as the Fair Share
13 Nutrient Reduction Assistance Program for Farmers Act.

14 Section 2. Legislative findings.

15 The General Assembly finds and declares as follows:

16 (1) Federal law mandates that ~~wastewater treatment~~ <—
17 ~~facilities and~~ farmers reduce nitrogen and phosphorus
18 discharges going into Commonwealth streams and rivers.

19 (2) In the Chesapeake Bay Watershed alone, 184 <—

20 ~~wastewater treatment facilities will be required to upgrade~~

1 ~~treatment systems at an estimated cost of more than~~
2 ~~\$1,000,000,000 and the Department of Environmental Protection~~
3 ~~has estimated the cost to farmers of complying with reduction~~
4 ~~mandates to be nearly \$600,000,000.~~

5 (3) ~~In order to meet the mandates, local wastewater~~ <—
6 ~~treatment facilities will have to double or triple their cost~~
7 ~~of service to ratepayers.~~ Farmers, who cannot pass along
8 costs through increased prices for farm commodities, will
9 face crippling increases in operating costs.

10 (4) Technical assistance and help ~~choosing~~ SELECTING and <—
11 implementing proper conservation practices on farms from
12 county conservation districts, the State Conservation
13 Commission and the Department of Agriculture is vital to the
14 success of reducing nutrients from agricultural sources.
15 These government entities have seen cuts in funding in the
16 past year, at a time when their services are most needed by
17 farmers.

18 ~~(5) One promising tool to reduce the cost of compliance~~ <—
19 ~~with these mandates for both wastewater treatment facility~~
20 ~~operators and farmers is the Nutrient Credit Trading Program~~
21 ~~established by the Department of Environmental Protection.~~
22 ~~However, the program currently is not doing all it can to~~
23 ~~reduce the risk of participation by wastewater treatment~~
24 ~~facility operators and farmers and is not generating the~~
25 ~~credits needed to allow for future growth and development.~~

26 ~~(6) Federal and State Government, local wastewater~~
27 ~~system ratepayers~~

28 (5) FEDERAL AND STATE GOVERNMENT and farmers must all do <—
29 their fair share to finance the costs of new nutrient
30 reduction mandates and support their successful

1 implementation, because the environmental and economic
2 benefits of clean water will accrue to all citizens of this
3 Commonwealth.

4 Section 3. Definitions.

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

8 "Agricultural nutrient and sediment reduction project." A
9 project undertaken in conjunction with an agricultural operation
10 to establish, implement or improve a best management practice
11 recognized by the UNITED STATES Environmental Protection Agency <—
12 or the PENNSYLVANIA Department of Environmental Protection of <—
13 ~~the Commonwealth~~ to reduce the levels of nitrogen, phosphorus or
14 sediment entering surface water or groundwater from farms in
15 this Commonwealth. The term includes design, construction,
16 reconstruction, erection, equipping, expansion, improvement,
17 installation, rehabilitation, renovation or repair of
18 infrastructure, buildings, structures, equipment and fixtures to
19 facilitate nutrient or sediment reduction.

20 ~~"Authority." The Pennsylvania Infrastructure Investment~~ <—
21 ~~Authority.~~

22 "Best management practice." A practice or combination of
23 practices recognized as effective and practical in the
24 management or reduction of nutrients or sediment to protect
25 surface water or groundwater, considering technological,
26 economic and institutional factors.

27 ~~"Board." The Nutrient Reduction Credit Trading Board.~~ <—

28 "Commission." The State Conservation Commission.

29 "Conservation district." A public body as defined in and
30 created under the act of May 15, 1945 (P.L.547, No.217), known

1 as the Conservation District Law.

2 ~~"Department." The Department of Environmental Protection of~~ <—
3 ~~the Commonwealth.~~

4 ~~"NPDES." The National Pollutant Discharge Elimination System~~
5 ~~established under the Federal Water Pollution Control Act (62~~
6 ~~Stat. 1155, 33 U.S.C. § 1251 et seq.)~~

7 Section 4. Agricultural Nutrient Reduction Program.

8 (a) Establishment.--The Agricultural Nutrient Reduction
9 Program is established to provide financial assistance in the
10 form of single-year or multiyear grants or tax credits for
11 agricultural nutrient and sediment reduction projects and to
12 provide tax credits for legacy sediment remediation projects in
13 this Commonwealth.

14 (b) Dedication to Conservation District Fund.--In addition
15 to any appropriations annually made, a total of \$10,000,000
16 annually shall be deposited in the Conservation District Fund.
17 Money to be deposited under this section shall be distributed by
18 the commission to conservation districts for their use in
19 undertaking activities as defined in the act of May 15, 1945
20 (P.L.547, No.217), known as the Conservation District Law. The
21 commission shall adopt criteria and procedures for allocation of
22 money deposited under this subsection to conservation districts.

23 (c) Financial assistance for agricultural nutrient and
24 sediment reduction projects.--For fiscal years 2008-2009 through
25 and including fiscal year 2012-2013, a nonlapsing appropriation
26 of \$15,000,000 annually shall be made to the commission for the
27 purpose of awarding grants to farmers for agricultural nutrient
28 and sediment reduction projects. Grants to be provided by the
29 commission for any agricultural nutrient and sediment reduction
30 project shall not exceed 50% of the cost of the project, except

1 that no more than \$150,000 in total grants may be awarded to a
2 single agricultural operation.

3 (d) Resource enhancement and protection tax credit.--For
4 fiscal years 2008-2009 through and including fiscal year 2012-
5 2013, a total of \$35,000,000 in tax credits annually shall be
6 made available to eligible applicants in accordance with the
7 provisions of Article XVII-E of the act of March 4, 1971 (P.L.6,
8 No.2), known as the Tax Reform Code of 1971, for agricultural
9 nutrient and sediment reduction projects and for legacy sediment
10 remediation projects. Authorization for tax credits and the
11 extent and limitation of eligibility, receipt and transfer of
12 tax credits shall be as provided in Article XVII-E of the Tax
13 Reform Code of 1971.

14 (e) For fiscal years 2008-2009 through and including fiscal
15 year 2014-2015, a total of \$10,000,000 annually shall be made
16 available to the Department of Agriculture for the Nutrient
17 Management Fund, agricultural research, agricultural extension
18 and other programs to aid farmers in complying with nutrient
19 reduction requirements.

20 (f) Administrative expenses.--The commission may annually
21 dedicate not more than \$350,000 of funds provided under
22 subsection (c) for administrative expenses incurred by the
23 commission in awarding grants and authorizing tax credits under
24 subsections (c) and (d).

25 Section 5. Funding sources.

26 Programs established under this act shall be funded through
27 an interfund transfer from The State Stores Fund. The Secretary
28 of the Budget shall transfer from The State Stores Fund an
29 amount of \$70,000,000 annually for fiscal year 2008-2009 through
30 fiscal year 2012-2013 and \$20,000,000 annually for fiscal year

- 1 2013-2014 through fiscal year 2014-2015.
- 2 Section 6. Effective date.
- 3 This act shall take effect immediately.