
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1482 Session of
2010

INTRODUCED BY MUSTO, M. WHITE, TARTAGLIONE, O'PAKE, RAFFERTY,
STOUT AND COSTA, OCTOBER 8, 2010

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, OCTOBER 8, 2010

AN ACT

1 Requiring water and wastewater systems to develop and implement
2 asset management plans and document progress toward full-cost
3 pricing; authorizing the Environmental Quality Board to adopt
4 regulations; providing for duties of the Department of
5 Environmental Protection and the Pennsylvania Public Utility
6 Commission; establishing contracting and bidding requirements
7 for municipalities and municipal authorities; imposing
8 penalties; and making related repeals.

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

11 CHAPTER 1

12 PRELIMINARY PROVISIONS

13 Section 101. Short title.

14 This act shall be known and may be cited as the Water and
15 Wastewater Infrastructure Sustainability Act.

16 Section 102. Definitions.

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

20 "Asset." The principle structures, machinery and equipment
21 essential to effectively operate a water or wastewater system.

1 The term includes treatment plants, pumps, lift stations, pipes,
2 hydrants, wells, reservoirs and tanks.

3 "Asset management." The combination of best management,
4 financial, economic, engineering and other practices applied to
5 physical assets with the objective of providing the required
6 level of service in the most cost-effective manner.

7 "Asset management plan." A written document that describes
8 the asset management program of a water or wastewater system.

9 "Bottled water system." A public water system which provides
10 water for bottling in sealed bottles or other sealed containers.
11 The term includes, but is not limited to, the sources of water
12 and treatment, storage, bottling, manufacturing and distribution
13 facilities. The term does not include a public water system
14 which provides only a source of water supply for a bottled
15 water.

16 "Bulk water hauling system." A public water system which
17 provides water piped into a carrier vehicle and withdrawn by a
18 similar means into the user's storage facility or vessel. The
19 term includes, but is not limited to, the sources of water
20 treatment, storage or distribution facilities. The term does not
21 include a public water system which provides only a source of
22 water supply for a bulk water hauling system.

23 "Capability enhancement program." The Department of
24 Environmental Protection's technical, managerial and financial
25 outreach assistance program implementing the capability
26 development program provisions of section 1420 of the Safe
27 Drinking Water Act (Public Law 93-523, 42 U.S.C. § 300g-9).

28 "Commission." The Pennsylvania Public Utility Commission.

29 "Committee." The Water and Wastewater Infrastructure
30 Advisory Committee established under section 301(a)(3).

1 "Community water system." A public water system which serves
2 at least 15 service connections used by year-round residents or
3 regularly serves at least 25 year-round residents.

4 "Customer." A person who pays for the services provided by
5 water and wastewater systems.

6 "Customer assistance program." A plan or program sponsored
7 by a water or wastewater system for the purpose of assuring
8 service to low-income households.

9 "Department." The Department of Environmental Protection of
10 the Commonwealth.

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

14 "Federal poverty guidelines." The poverty measure based on
15 family size and household income issued annually by the United
16 States Department of Health and Human Services as published in
17 the Federal Register.

18 "Full-cost pricing." The establishment of user charges
19 which, in combination with any other available resources,
20 provide the revenues necessary to recover a water or wastewater
21 system's cost of providing service and that enables it to:

22 (1) Comply with all applicable laws and regulations.

23 (2) Promote economic efficiency.

24 (3) Ensure provision of high quality and affordable
25 services to the public.

26 (4) Promote efficient use of the system by customers.

27 (5) Implement its asset management plan.

28 "Household income." The combined gross income of all
29 residents 18 years of age or older in a household.

30 "Industrial waste." Any liquid, gaseous, radioactive, solid

1 or other substance, not sewage, resulting from any manufacturing
2 or industry or from any establishment, and mine drainage,
3 refuse, silt, coal mine solids, rock, debris, dirt and clay from
4 coal mines, coal collieries, breakers or other coal processing
5 operations. The term shall include all such substances whether
6 or not generally characterized as waste.

7 "Industrial wastewater treatment system." Any system that
8 treats industrial waste or pollution, as those terms are defined
9 in section 1 of the act of June 22, 1937 (P.L.1987, No.394),
10 known as The Clean Streams Law.

11 "Municipal authority." A public authority established under
12 53 Pa.C.S. Ch. 56 (relating to municipal authorities) or the
13 former act of May 2, 1945 (P.L.382, No.164), known as the
14 Municipality Authorities Act of 1945, which supplies water or
15 provides wastewater treatment services.

16 "Municipality." A county, city, borough, town or township.

17 "Noncommunity water system." A public water system which is
18 not a community water system.

19 "Nontransient noncommunity water system." A noncommunity
20 water system that regularly serves at least 25 of the same
21 persons more than six months per year.

22 "Person." Any individual, partnership, association, company,
23 corporation, municipality, municipal authority, political
24 subdivision or any agency of Federal or State Government. The
25 term shall include the officers, employees and agents of any
26 partnership, association, company, corporation, municipality,
27 municipal authority, political subdivision or any agency of
28 Federal or State Government.

29 "Public water system." A system which provides water to the
30 public for human consumption which has at least 15 service

1 connections or regularly serves an average of at least 25
2 individuals daily at least 60 days per year. The term includes
3 collection, treatment, storage and distribution facilities
4 whether or not they are under the control of the operator of the
5 system and used in connection with the system. Water for human
6 consumption includes water that is used for drinking, bathing
7 and showering, cooking, dishwashing or maintaining oral hygiene.

8 "Retail water facility." A public water system which
9 provides water for bottling without the use of a water vending
10 machine by dispensing unit servings of water in containers
11 whether or not the containers are provided by the customers.

12 "Revenue." All funds received by a water or wastewater
13 system.

14 "Secretary." The Secretary of Environmental Protection of
15 the Commonwealth.

16 "Transient noncommunity water system." A water system which
17 is not a community, nontransient noncommunity, bottled or vended
18 water system, nor a retail water facility or a bulk water
19 hauling system.

20 "User charges." Amounts charged to customers of a water or
21 wastewater system for system services.

22 "Vended water system." A water system which provides water
23 for bottling through the use of one or more water vending
24 machines.

25 "Wastewater." A substance that contains the waste products
26 or excrement or other discharge from the bodies of human beings
27 or other noxious or deleterious substances that is harmful or
28 inimical to the public health, to animal or aquatic life or to
29 the use of water for domestic water supply or for recreation, or
30 which constitutes pollution under the act of June 22, 1937

1 (P.L.1987, No.394), known as The Clean Streams Law.

2 "Wastewater system." Any structure or system that has the
3 primary purpose of collecting, conveying or treating wastewater
4 and from which effluent in excess of 2,000 gallons per day is
5 discharged into waters of this Commonwealth. The term does not
6 include an industrial wastewater treatment system or a system
7 whose entire service area is regulated by the Pennsylvania
8 Public Utility Commission.

9 "Water system." A public water system that is not:

10 (1) Regulated by the Pennsylvania Public Utility
11 Commission.

12 (2) A nontransient noncommunity water system.

13 (3) A transient noncommunity water system.

14 (4) A bottled water system.

15 (5) A vended water system.

16 (6) A retail water facility.

17 (7) A bulk water hauling system.

18 CHAPTER 3

19 POWERS AND DUTIES

20 Section 301. Powers and duties of department.

21 (a) Powers and duties.--The department shall have the power
22 and duty to:

23 (1) Cooperate with and seek assistance from the
24 commission in accordance with sections 502 and 503.

25 (2) Provide technical, managerial and financial
26 capability assistance to water and wastewater systems to
27 implement the asset management and full-cost pricing
28 requirements of sections 501 and 502.

29 (3) Create a Water and Wastewater Infrastructure
30 Advisory Committee to advise the department in developing

1 regulations and guidelines to implement the provisions of
2 this act. The committee shall provide written comments and
3 recommendations to the department on regulatory proposals and
4 departmental guidelines related to water and wastewater
5 infrastructure. Within 60 days of the effective date of this
6 act, the secretary shall appoint 17 members to the committee
7 who represent all aspects of water and wastewater treatment.
8 Members of the committee shall include representatives of
9 providers, consumers, suppliers and the public. Members of
10 the committee shall elect a chairman annually by majority
11 vote. Members of the committee shall serve without
12 compensation other than reimbursement for actual and
13 necessary expenses incurred in the performance of their
14 duties, in accordance with Commonwealth policy or
15 regulations.

16 (4) Review and take action on asset management plans
17 under section 501.

18 (5) Inspect water and wastewater systems to evaluate the
19 development and implementation of asset management plans
20 required under section 501.

21 (6) Review financial reports submitted under section 502
22 to determine whether water and wastewater systems have moved
23 toward full-cost pricing.

24 (7) Issue orders or include conditions in permits issued
25 to water and wastewater systems necessary to ensure
26 compliance with sections 501 and 502.

27 (8) Charge water and wastewater systems fees, in
28 accordance with regulations adopted by the Environmental
29 Quality Board, in an amount sufficient to fund the necessary
30 staff to undertake the review of asset management plans and

1 financial reports and provide technical, financial and
2 managerial assistance to water and wastewater systems and
3 administration and oversight of this act. Fees assessed under
4 this chapter and civil penalties collected under Chapter 9
5 shall be paid into The Clean Water Fund, established under
6 section 8 of the act of June 22, 1937 (P.L.1987, No.394),
7 known as The Clean Streams Law, and shall be used for
8 implementation and administration of this act, including
9 review of asset management plans, training programs for water
10 and wastewater system boards and the Asset Management
11 Assistance Provider Program.

12 (9) Establish optional training programs designed to
13 provide training and information to members of water and
14 wastewater system boards.

15 (10) Create an Asset Management Assistance Provider
16 Program in which the department may accredit a person
17 providing assistance in the development of an asset
18 management planning process, either on a program basis or on
19 a system-specific basis, as an asset management assistance
20 provider. The department may approve the materials to be used
21 by the person, the person's qualifications and the
22 methodology used by the person for the development of an
23 asset management planning process and resultant reports in
24 accordance with such specifications or guidelines the
25 department may develop in consultation with the committee.
26 The department may audit, examine, inspect and review the
27 operations of asset management assistance providers,
28 including staff hired by the provider to provide asset
29 management plan development, and review services and any
30 materials or mechanisms to be used by the provider to provide

1 these services in accordance with the department's
2 guidelines.

3 (11) Provide assistance to water and wastewater systems
4 to support compliance with the requirements of this act. To
5 the extent practicable, the department will use technical,
6 financial and managerial assistance approaches and tools set
7 forth in the capability enhancement program for drinking
8 water systems funded and established under section 1420 of
9 the Safe Drinking Water Act (Public Law 93-523, 42 U.S.C. §
10 300g-9).

11 (b) Other laws.--Nothing in this act shall be construed to
12 abrogate the authority of the department under any other law
13 administered by the department.

14 Section 302. Powers and duties of Environmental Quality Board.

15 The Environmental Quality Board shall have the power and duty
16 to adopt such rules, regulations and fees of the department to
17 implement the requirements of this act that are subject to the
18 jurisdiction of the department, including relevant provisions of
19 sections 501 and 502.

20 Section 303. Powers and duties of commission.

21 (a) Powers and duties.--The commission shall have the power
22 and duty to:

23 (1) Cooperate with the department in accordance with
24 sections 502 and 503.

25 (2) At the request of the department, review financial
26 reports submitted under section 502 and make recommendations
27 to the department for resubmittal of reports that do not meet
28 the requirements established under this act.

29 (b) Other laws.--Nothing in this act shall be construed to
30 abrogate the authority of the commission under 66 Pa.C.S.

1 (relating to public utilities).

2 CHAPTER 5

3 ASSET MANAGEMENT AND FULL-COST PRICING

4 Section 501. Asset management.

5 (a) General rule.--Each water and wastewater system subject
6 to this act shall develop and maintain an asset management plan.
7 Each plan shall be submitted to the department for review and
8 approval upon request of the department. The review and approval
9 by the department shall be done in accordance with a phased
10 schedule to be set forth in regulations adopted by the
11 Environmental Quality Board under this act. Revisions of any
12 plan may be required at any time by order of the department, as
13 directed by regulations adopted by the Environmental Quality
14 Board, if there is information indicating that the asset
15 management plan does not adequately satisfy the objectives of
16 this act. An initial asset management plan shall not be required
17 to be submitted until the Environmental Quality Board has
18 adopted initial regulations under this act. The following apply:

19 (1) A copy of the asset management plan shall be filed
20 in the water or wastewater system's office and, if
21 applicable, posted on the water or wastewater system's
22 Internet website.

23 (2) Nothing in this act shall be construed to abrogate
24 the provisions of the act of November 29, 2006 (P.L.1435,
25 No.156), known as the Public Utility Confidential Security
26 Information Disclosure Protection Act.

27 (b) Content of asset management plans.--

28 (1) Asset management plans shall conform to the
29 requirements established in regulations adopted under this
30 act.

1 (2) Asset management plans shall include:

2 (i) An inventory of existing assets.

3 (ii) An assessment of the condition of existing
4 assets and the identification of the risk and impact of
5 asset failure.

6 (iii) An assessment of the anticipated useful life
7 of assets based on the assessment in subparagraph (ii).

8 (iv) Identification of needed operation,
9 maintenance, repair, improvement, expansion,
10 rehabilitation and replacement of existing assets. This
11 identification shall be prioritized to identify the most
12 critical needs and shall include a schedule to reflect
13 the point in time that improvements are most cost
14 effective.

15 (v) A schedule of costs to operate, maintain,
16 improve, expand, repair, rehabilitate and replace assets
17 for each of the following ten years.

18 (vi) Identification of sources and amounts of funds
19 to finance the operation, maintenance, repair,
20 improvement, expansion, rehabilitation and replacement of
21 assets, including debt service, and to provide for
22 emergencies for each of the following ten years.

23 (c) Department review.--The department shall review asset
24 management plans for technical adequacy and consistency with the
25 financial reports submitted under section 502(b). The department
26 shall approve the plan or require resubmittal within 120 days of
27 the submission of a complete asset management plan.

28 (d) Use of revenues.--Revenues from user charges shall only
29 be used for operation, maintenance, capital expenses and other
30 costs directly related to the provision of water or wastewater

1 treatment service by the water or wastewater system that
2 receives the revenues.

3 (e) Action by department.--If the department determines,
4 after review of a financial report, that the water or wastewater
5 system has failed to implement the requirements of this act, the
6 department may take appropriate actions, including any or all of
7 the following:

8 (1) Require that an asset management plan that meets the
9 requirements of this section be submitted within 60 days.

10 (2) Provide assistance in the development and
11 implementation of the asset management plan.

12 (3) Issue an order requiring the development,
13 implementation or revision of an asset management plan.

14 (4) Initiate enforcement action as outlined in Chapter
15 9.

16 Section 502. Full-cost pricing.

17 (a) General rule.--Each water and wastewater system shall
18 make every effort to move toward the implementation of full-cost
19 pricing.

20 (b) Financial reports.--

21 (1) Each water and wastewater system shall submit
22 annually to the department a financial report, including
23 sufficient detail to demonstrate compliance with any
24 regulations adopted by the Environmental Quality Board under
25 this act. A copy of the financial report shall also be
26 submitted to the Department of Community and Economic
27 Development.

28 (2) The financial report shall consist of two parts as
29 follows:

30 (i) Part I of the financial report shall consist of

1 a compilation, review or audit of the books, accounts and
2 records, conducted by a certified public accountant. The
3 compilation, review or audit shall include an
4 identification of the revenues from user charges and how
5 those revenues were used, including implementation of the
6 asset management plan required under section 501 in
7 accordance with section 501(d).

8 (ii) Part II of the financial report shall consist
9 of a budget for the next fiscal year. The budget shall
10 contain sufficient detail to demonstrate how revenues
11 from user charges will provide the required level of
12 service to the public, including implementation of the
13 asset management plan required under section 501, within
14 limits of affordability to be established in regulations.
15 If regulations are not adopted by the time of the initial
16 submission required under this subparagraph, the limit of
17 affordability to be applied is 1.2% to 1.5% of the median
18 household income. The initial Part II financial report is
19 not required until such time as the initial asset
20 management plan is required.

21 (3) The financial reports required under this act shall
22 be submitted according to one of the following schedules:

23 (i) A water or wastewater system whose fiscal year
24 ends December 31 shall submit the report on or before May
25 1 of the following calendar year.

26 (ii) A water or wastewater system whose fiscal year
27 does not end on December 31 shall file the report within
28 120 days after the end of its fiscal year.

29 (4) A copy of the financial report shall be filed in the
30 water or wastewater system's office and, if applicable,

1 posted on the water or wastewater system's Internet website.

2 (c) Customer assistance program.--Water and wastewater
3 systems shall offer a customer assistance program to reduce the
4 financial burden of user charges on customers with household
5 incomes 150% or less of the Federal poverty level according to
6 Federal poverty guidelines. A customer assistance program may
7 not conflict with other laws of the Commonwealth which control
8 user charges.

9 (d) Departmental action.--If the department determines that
10 the water or wastewater system is not moving toward the goal of
11 implementing full-cost pricing, the department may:

12 (1) Require that a corrected financial report that meets
13 the requirements of this section be submitted within 60 days
14 after issuance of an order.

15 (2) Confer with the commission to recommend a schedule
16 of user charge adjustments to achieve the goal or the
17 customer assistance program requirements of subsection (c).
18 Section 503. Acquisition of small water and wastewater systems.

19 (a) Petition and determination.--The department may petition
20 the commission to request that it order a capable public utility
21 as the term is defined in 66 Pa.C.S. § 529(m) (relating to power
22 of commission to order acquisition of small water and sewer
23 utilities) to acquire a water or wastewater system that
24 regularly serves no more than 1,200 customer connections and
25 that is owned by a municipal authority or a municipality. The
26 commission may issue the requested order if the commission,
27 after notice and an opportunity to be heard by the owner of the
28 water or wastewater system, determines all of the following:

29 (1) The water or wastewater system is in violation of
30 any applicable statutory or regulatory standards, including,

1 but not limited to, the act of June 22, 1937 (P.L.1987,
2 No.394), known as The Clean Streams Law, the act of January
3 24, 1966 (1965 P.L.1535, No.537), known as the Pennsylvania
4 Sewage Facilities Act and the act of May 1, 1984 (P.L.206,
5 No.43), known as the Pennsylvania Safe Drinking Water Act,
6 and the regulations adopted thereunder, which affect the
7 safety or adequacy of the service provided by the water or
8 wastewater system.

9 (2) The water or wastewater system has failed to comply,
10 within a reasonable period of time, with any order of the
11 department concerning the safety of the system or adequacy of
12 service, including, but not limited to, the availability of
13 water, the potability of water, the palatability of water,
14 the availability of wastewater collection, interceptor or
15 treatment capacity or the provision of water at adequate
16 volume and pressure.

17 (3) The small water or wastewater system cannot
18 reasonably be expected to furnish and maintain adequate and
19 safe service and facilities in the future.

20 (4) Alternatives to acquisition as set forth in 66
21 Pa.C.S. § 529(b) have been considered and have been
22 determined by the commission to be impractical or not
23 economically feasible.

24 (5) The acquiring capable public utility is financially,
25 managerially and technically capable of acquiring and
26 operating the small water or wastewater system in compliance
27 with applicable statutory and regulatory standards.

28 (6) The rates charged by the acquiring capable public
29 utility to its preacquisition customers will not increase
30 unreasonably because of the acquisition.

1 (b) Factors.--In making the determination pursuant to
2 subsection (a), the commission shall consider the factors set
3 forth in 66 Pa.C.S. § 529(c).

4 (c) Order.--Subsequent to the determination under subsection
5 (a), the commission may issue an order for the acquisition of
6 the small water or wastewater system by a capable public
7 utility. The order shall provide for the extension of the
8 service area of the acquiring capable public utility.

9 (d) Acquisition price.--The price for the acquisition of the
10 small water or wastewater system shall be determined by
11 agreement between the owner of the small water or wastewater
12 system and the acquiring capable public utility, subject to a
13 determination by the commission that the price is reasonable,
14 considering the value of assets as well as liabilities. If the
15 owner of the small water or wastewater system and the acquiring
16 capable public utility are unable to agree on the acquisition
17 price or the commission disapproves the acquisition price on
18 which they have agreed, the commission shall issue an order
19 directing the acquiring capable public utility to acquire the
20 small water or wastewater system by following the procedure
21 prescribed for exercising the power of eminent domain pursuant
22 to 26 Pa.C.S. (relating to eminent domain), without regard to
23 any restrictions in 26 Pa.C.S. or otherwise regarding the use of
24 such procedures against property owned by a municipal authority
25 or municipality.

26 (e) Procedure.--The provisions and procedures set forth in
27 66 Pa.C.S. § 529(f), (g), (h), (i), (j), (k) and (l) shall apply
28 to any proceeding initiated by the commission against a small
29 water or wastewater system under this section.

30

CHAPTER 7

1 CONTRACTS AND BIDDING

2 Section 701. Competition in award of contracts.

3 (a) Exceptions to competitive bid requirement.--

4 Notwithstanding any provision of law to the contrary, the use of
5 competitive bidding is not required for:

6 (1) Construction, reconstruction, repair or other work
7 made by a municipality or municipal authority for water and
8 wastewater projects where the project amount is below the
9 bidding requirement threshold in subsection (b) if:

10 (i) procurement is made through solicitation of
11 written proposals from three qualified contractors if
12 available in the market area;

13 (ii) it is practicable to obtain the quotations; and

14 (iii) procurement is made through issuance of a
15 contract.

16 (2) The purchase of supplies and materials by a
17 municipality or municipal authority for water and wastewater
18 needs where the amount is below the bidding requirement
19 threshold set forth in subsection (b) if:

20 (i) procurement is made through solicitation of
21 proposals from three qualified vendors if available in
22 the market area;

23 (ii) it is practicable to obtain the quotations; and

24 (iii) procurement is made through issuance of a
25 contract.

26 (3) The purchase of pollutant reduction credits by a
27 municipality or municipal authority from a State-approved
28 public exchange, where the credits are used to meet legal
29 requirements for wastewater systems under a credit program
30 administered by the department if:

1 (i) public notice is made prior to the purchase; and
2 (ii) the governing body of the municipality or
3 municipal authority has made a finding that the purchase
4 is in the best interests of the public and the customers
5 of the wastewater system.

6 (b) Competitive bid threshold.--If a water and wastewater
7 project is \$100,000, or a higher amount in future years based
8 upon any increase in the Consumer Price Index as compared to the
9 Consumer Price Index on the effective date of this subsection,
10 as published annually in the Pennsylvania Bulletin by the
11 department, it shall be competitively bid.

12 Section 702. Use of multiple-factor and comprehensive bidding
13 and contracting.

14 (a) Procedures.--Notwithstanding any provision of law to the
15 contrary, where the use of competitive bidding by a municipality
16 or municipal authority is required by law for the erection,
17 construction and alteration of any water or wastewater system,
18 the following procedures may be used when the governing body of
19 the municipality or municipal authority has made a finding that
20 the procedures are in the best interests of the public and the
21 customers of the water or wastewater system:

22 (1) The architect, engineer or other person may prepare
23 specifications that contain all of the requirements for the
24 project, including performance-based criteria or multiple-
25 decision criteria to the extent that those criteria are
26 necessary to address the particular complexities of the
27 project, in addition to the lowest price.

28 (2) The person authorized to enter into contracts for
29 the erection, construction or alteration of the water or
30 wastewater system may receive bids responsive to the

1 specifications, and may award contracts, only as necessary to
2 reflect the complexity of the project, considering the
3 qualifications, financial strength and past performance of
4 the contractor, the initial design and construction costs and
5 the long-term operating and replacement costs.

6 (b) Single contract.--Notwithstanding any contrary provision
7 of law, any municipality or municipal authority may procure
8 through a single contract the construction, the design and
9 construction or the design, construction and operation of water
10 and wastewater projects.

11 CHAPTER 9

12 ENFORCEMENT

13 Section 901. Violations.

14 (a) Civil penalty.--

15 (1) In addition to proceeding under any other remedy
16 available at law or in equity for a violation of this act,
17 any rule or regulation of the department under this act or
18 any term or condition relating to this act in any permit
19 issued by the department, the department may assess a civil
20 penalty upon a person for the violation.

21 (2) A civil penalty may only be assessed after the
22 department has issued an order relating to the violation and
23 the person fails to comply within 60 days of the issuance of
24 the order.

25 (3) A civil penalty may be assessed whether or not the
26 violation was willful or negligent.

27 (4) When the department assesses a civil penalty, it
28 shall inform the person of the amount of the penalty. The
29 person charged with the penalty must pay the penalty in full
30 within 30 days or, if the person wishes to contest either the

1 amount of the penalty or the fact of the violation, the
2 person shall, within the 30-day period, file an appeal of the
3 action with the Environmental Hearing Board. Failure to
4 appeal within 30 days shall result in a waiver of all legal
5 rights to contest the violation or the amount of the penalty.

6 (5) The maximum civil penalty which may be assessed
7 pursuant to this section is \$1,000 per day for each
8 violation. Each violation for each separate day and each
9 violation of any provision of this act, any rule or
10 regulation under this act, any order to the department or any
11 term and condition relating to this act in the permit shall
12 constitute a separate and distinct offense under this
13 section.

14 (b) Other remedies.--The penalties and remedies prescribed
15 by this act shall be deemed concurrent, and the existence of or
16 exercise of any remedy shall not prevent the department from
17 exercising any other remedy under this act, at law or in equity.

18 (c) Funding.--Any person who fails to make payments of
19 penalties in full within the appointed time will be ineligible
20 for any funding of State moneys for the purpose of water or
21 wastewater infrastructure construction until such time as the
22 penalty is paid in full.

23 CHAPTER 21

24 MISCELLANEOUS PROVISIONS

25 Section 2101. Repeals.

26 (1) The General Assembly declares that the repeals under
27 paragraph (2) are necessary to effectuate the purposes of
28 this act.

29 (2) Repeals are as follows:

30 (i) Section 4.1 of the act of November 18, 1968

1 (P.L.1052, No.322), known as the Water and Wastewater
2 Systems Operators' Certification Act, is repealed.

3 (ii) Section 6(b) of the act of March 16, 1992
4 (P.L.10, No.5), known as the Small Water Systems
5 Assistance Act, is repealed.

6 (iii) 53 Pa.C.S. § 5612(b) (relating to money of
7 authority), is repealed insofar as it relates to water
8 and wastewater systems.

9 Section 2102. Effective date.

10 This act shall take effect in 30 days.