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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1401 Session of  
2015

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INTRODUCED BY ALLOWAY AND CORMAN, OCTOBER 26, 2016

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, OCTOBER 26, 2016

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AN ACT

1 Providing for the creation of Water Quality Improvement Grants  
2 to local governments, county conservation districts, State  
3 agencies and individuals for point and nonpoint source  
4 prevention, reduction and control programs, for establishment  
5 of a verified total maximum daily limit parameter credit  
6 program and for the powers and duties of the State  
7 Conservation Commission.

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

10 Section 1. Short title.

11 This act shall be known and may be cited as the Water Quality  
12 Improvement Act.

13 Section 2. Definitions.

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

17 "Commission." The State Conservation Commission.

18 "Consume." Remove water from the waters of this Commonwealth  
19 and not return the water to the natural source.

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

1 "Extraordinary water user." A person that withdraws more  
2 than 10,000 gallons of water a day from the waters of this  
3 Commonwealth for the purpose of for-profit business. The term  
4 does not include withdrawals made by a community water system or  
5 a noncommunity water system regulated by the department under  
6 the act of May 1, 1984 (P.L.206, No.43), known as the  
7 Pennsylvania Safe Drinking Water Act.

8 "Fund." The Watershed Quality Improvement Fund established  
9 under section 5.

10 "Groundwater or surface water source." A river, stream,  
11 brook, lake, body of water or aquifer located in this  
12 Commonwealth.

13 "Permittee." An individual, partnership, corporation,  
14 association, institution, municipality or public authority or  
15 cooperative enterprise that discharges or releases a total  
16 maximum daily limit parameter to surface or ground waters of  
17 this Commonwealth. The term does not include a person engaged in  
18 agricultural production, as defined in section 3 of the act of  
19 June 30, 1981 (P.L.128, No.43), known as the Agricultural Area  
20 Security Law.

21 "Program." The Water Quality Improvement Program established  
22 under section 6.

23 "Returned." Put water back into the waters of this  
24 Commonwealth, whether the water is diminished in quality or not.

25 "Sediment." Soils or other erodible materials transported by  
26 storm water as a product of erosion.

27 "Total maximum daily limit parameter." Pollutant that has  
28 been identified as the cause of nonattainment of water quality  
29 standards and for which a total maximum daily load has been  
30 developed to set allowable loading targets.

1 "Unmet total maximum daily limit parameter." Total  
2 outstanding permittee requirements, going forward three years,  
3 issued by the commission.

4 "Verified total maximum daily limit parameter credit." A  
5 unit of pollutant load reduction for a total maximum daily load  
6 parameter achieved through a pollutant reduction activity  
7 approved by the commission as a verified reduction based upon an  
8 approved verification plan.

9 "Watersheds." The Delaware, Erie, Ohio, Potomac, Susquehanna  
10 and Genesee watersheds.

11 "Water year." The 12-month period beginning October 1 of  
12 each calendar year.

13 "Withdraw" or "withdrawal." The removal, diversion or taking  
14 of water from a groundwater or surface water source.

15 Section 3. Registration.

16 (a) General rule.--No extraordinary water user may withdraw  
17 water from any groundwater or surface water source for a  
18 nonagricultural or nonmunicipal purpose without filing a  
19 registration document with the department.

20 (b) Registration document.--The registration document shall  
21 be submitted on a form prepared by the department and shall set  
22 forth all of the following:

23 (1) The name and mailing address of the applicant.

24 (2) The name, if any, and location of the water source.

25 (3) The type of water source.

26 (4) The point in the water source from which the user  
27 proposes to withdraw the water.

28 (5) The name, location and acreage of the lands or other  
29 application for which the water is to be withdrawn.

30 (6) The location and description of the water well,

1 canal, tunnel or piping and other works or equipment through  
2 which the water is to be withdrawn.

3 (7) The amount, in gallons, of water withdrawn on an  
4 average day of operation during the preceding year and the  
5 number of days during the preceding year when water was  
6 withdrawn.

7 (8) The total amount, in gallons, of water estimated to  
8 be withdrawn and the periods of time when the withdrawal is  
9 scheduled during the current year.

10 (9) The location, means and expected condition of any  
11 water returned to the waterways of this Commonwealth.

12 Section 4. Water resource fee.

13 (a) Fee.--An extraordinary water user shall pay all the  
14 following fees to the Commonwealth:

15 (1) For water withdrawn and subsequently returned to the  
16 water source, a water resource fee of \$0.0001 per gallon for  
17 water withdrawals greater than 10,000 gallons per day for  
18 nonagricultural or nonmunicipal purposes.

19 (2) For water withdrawn and consumed, a water resource  
20 fee of \$0.001 per gallon for water consumption greater than  
21 10,000 gallons per day for nonagricultural or nonmunicipal  
22 purposes.

23 (b) Water consumption calculation.--For purposes of  
24 calculating the fee under subsection (a) (2), all the following  
25 apply:

26 (1) For those extraordinary water users that measure  
27 water use by meter, the difference between the values of  
28 daily withdrawn water and daily returned water shall be  
29 reported as the amount consumed.

30 (2) For those extraordinary water users that do not

1 measure metered withdrawn and returned water, or due to  
2 evaporation or method of use find it impossible to accurately  
3 measure water consumed, the amount consumed shall be based on  
4 the department's consumptive use coefficients. The department  
5 shall determine which extraordinary water users are subject  
6 to this paragraph and shall develop coefficients for those  
7 users.

8 (c) Coordination with other fees.--The fees, if any, paid by  
9 an extraordinary water user under the act of July 7, 1961  
10 (P.L.518, No.268), known as the Delaware River Basin Compact,  
11 and the act of July 17, 1968 (P.L.368, No.181), referred to as  
12 the Susquehanna River Basin Compact Law, to the Susquehanna  
13 River Basin Commission or the Delaware River Basin Commission,  
14 at the rates set on the effective date of this act, shall be  
15 subtracted from fees owed under this section.

16 Section 5. Watershed Quality Improvement Fund.

17 (a) Establishment.--The Watershed Quality Improvement Fund  
18 is established within the State Treasury.

19 (b) Deposits.--The following shall be deposited into the  
20 fund:

21 (1) The fees collected under section 4 shall be paid  
22 into the fund.

23 (2) Any appropriation made to the fund.

24 (3) Any other Federal or State appropriation or other  
25 money determined by the commission, in consultation with the  
26 Governor's Office of the Budget, to be available for the  
27 program.

28 (4) Any money received from a permittee under this  
29 section.

30 (c) Use.--Money in the fund shall be used by the commission

1 to finance the costs of design and installation of enhanced  
2 nutrient removal technology at publicly owned treatment works  
3 designated as significant dischargers or eligible nonsignificant  
4 dischargers for the purpose of compliance with effluent  
5 limitations for total nitrogen and total phosphorus of the  
6 Chesapeake Bay Total Maximum Daily Load Watershed Implementation  
7 Plan, a local total maximum daily load or applicable regulatory  
8 or permit requirements and the purchase of verified total  
9 maximum daily load parameter credits under section 6.

10 Section 6. Water Quality Improvement Program.

11 (a) Establishment.--The Water Quality Improvement Program is  
12 established. The program shall be used solely to finance the  
13 costs of design and installation of enhanced nutrient removal  
14 technology at publicly owned treatment works designated as  
15 significant dischargers or eligible nonsignificant dischargers  
16 for the purpose of compliance with effluent limitations for  
17 total nitrogen and total phosphorus of the Chesapeake Bay Total  
18 Maximum Daily Load Watershed Implementation Plan, a local total  
19 maximum daily load or applicable regulatory or permit  
20 requirements and for the purchase of commission-verified total  
21 maximum daily load parameter credits through a competitive  
22 process consistent with 62 Pa.C.S. Pt.1 (relating to  
23 Commonwealth Procurement Code) and any other process determined  
24 to be appropriate by the commission.

25 (b) Powers and duties.--The commission shall administer the  
26 program and take any actions necessary to effectuate the  
27 purposes of this act.

28 (c) Grants.--The grants shall be in accordance with the  
29 following:

30 (1) The commission shall make no less than 50% of the

1 fund available for matching grants to local governments,  
2 conservation districts, institutions of higher education and  
3 individuals who propose specific initiatives that are clearly  
4 demonstrated as likely to achieve reductions in nonpoint  
5 source pollution, include excesses, nutrients and suspended  
6 solids to improve the quality of this Commonwealth's water.

7 The projects may include:

8 (i) The acquisition of conservation easements  
9 related to the protection and restoration of water  
10 quality and stream buffers.

11 (ii) Conservation planning and design assistance to  
12 develop and implement conservation plans and nutrient  
13 management plans for agricultural operations.

14 (iii) Instructional education directly associated  
15 with the implementation or maintenance of specific  
16 nonpoint source pollution reduction plans and  
17 initiatives.

18 (iv) The replacement or modification of residential  
19 onsite sewage systems to include nitrogen removal  
20 capabilities.

21 (v) Implementation of cost-effective nutrient and  
22 sediment reduction practices.

23 (2) Priority consideration to the distribution of grants  
24 from the fund shall be given for implementing any applicable  
25 regulations, permits, local total maximum daily limits or the  
26 Chesapeake Bay Total Maximum Daily Load Watershed  
27 Implementation Plan, with a priority given to best management  
28 practices to address nonpoint source pollution from  
29 agricultural activities.

30 (3) In no single year shall more than 60% of the money

1 under this subsection be used for projects or practices  
2 exclusively within the Chesapeake Bay watershed.

3 (d) Contracts with total maximum daily limit parameter  
4 credit sellers.--

5 (1) The following shall apply:

6 (i) The commission shall, beginning with the water  
7 year in which this subsection takes effect and the next  
8 two water years, publish a notice of the unmet total  
9 maximum daily limit requirements in the Pennsylvania  
10 Bulletin.

11 (ii) No later than 60 days following publication of  
12 the notice under subparagraph (i), the commission shall  
13 issue a request for proposals under 62 Pa.C.S. Pt. I for  
14 purchase of long-term verified total maximum daily limit  
15 parameter credits in order to meet the unmet total  
16 maximum daily limit parameter for those water years  
17 included in the notice. A long-term verified total  
18 maximum daily limit parameter credit under this  
19 subparagraph must be at least 10 years.

20 (2) The commission shall determine the conditions or  
21 evaluation factors applicable to the procurement and purchase  
22 of verified total maximum daily limit parameter credits to  
23 best achieve cost-effective water quality improvements within  
24 the watershed defined by the total maximum daily limit. The  
25 conditions or evaluation factors shall include cost,  
26 environmental benefits and whether multiple total maximum  
27 daily limit parameters would be met. The commission shall  
28 include and value as an offset the Green Infrastructure  
29 Benefits using the Growing Greener Valuation.

30 (3) Within 30 days following the date for submission of

1 responses to the request for proposals, the commission shall  
2 determine the cost for purchase of each long-term individual  
3 verified total maximum daily limit parameter credit included  
4 in the request for proposals and shall publish a notice of  
5 the cost in the Pennsylvania Bulletin.

6 Section 7. Voluntary options for compliance.

7 (a) Voluntary compliance opt-in.--The commission shall  
8 establish a voluntary total maximum daily limit parameter permit  
9 compliance program to allow permittees and other buyers to elect  
10 to comply with total maximum daily limit parameter permit  
11 requirements by agreeing to make payments to the fund for the  
12 requisite number of verified total maximum daily limit parameter  
13 credits obtained under section 4 needed in order to meet permit  
14 requirements.

15 (b) Payment amounts.--Payment amounts under subsection (a)  
16 shall be based on the cost determination made under section 4 as  
17 published in the Pennsylvania Bulletin.

18 (c) Election to opt in.--A permittee shall have 30 days  
19 following publication of the notice under section 4(c)(3) to  
20 notify the commission of the permittee's election to opt in to  
21 the voluntary total maximum daily limit parameter permit  
22 compliance program or proceed with an alternative compliance  
23 method under subsection (e).

24 (d) Offset.--Verified total maximum daily limit parameter  
25 credits obtained under subsection (a) shall be deemed by the  
26 commission to satisfy applicable wastewater and storm water  
27 total maximum daily limit parameter permitting requirements. The  
28 commission shall make no less than 30% of the funds available  
29 for the competitively bid verified credit procurement program.

30 (e) Alternative compliance.--A permittee which elects not to

1 opt in to the voluntary total maximum daily limit parameter  
2 compliance program under subsection (a) shall, as part of the  
3 permittee's wastewater or storm water permitting process,  
4 demonstrate to the commission the cost-effectiveness of the  
5 alternative total maximum daily limit compliance method selected  
6 in comparison with other alternatives, including opting in to  
7 the voluntary total maximum daily limit parameter permit  
8 compliance program under subsection (a) and as part of the  
9 permittee's review under the act of January 24, 1966 (1965  
10 P.L.1535, No.537), known as the Pennsylvania Sewage Facilities  
11 Act and the act of October 4, 1978 (P.L.864, No.167), known as  
12 the Storm Water Management Act. If a permittee is unable to show  
13 cost-effectiveness of the alternative total maximum daily limit  
14 compliance method, the alternative total maximum daily limit  
15 compliance method shall be ineligible for funding under this  
16 act.

17 Section 8. Regulations.

18 The commission may promulgate regulations to carry out the  
19 provisions of this act which shall include the identification of  
20 geographic areas in watersheds throughout this Commonwealth  
21 which have a high potential for agriculturally related soil  
22 erosion or movement of sediments, animal wastes or agricultural  
23 chemicals into the surface waters of this Commonwealth, the  
24 designation of priority areas for cost-sharing grants  
25 established under this act and the establishment of program  
26 requirements, including application procedures, eligibility  
27 criteria, provisions for monitoring and review and measures to  
28 assure accountability for all cost-sharing funds and credits.

29 Section 9. Effective date.

30 This act shall take effect in 180 days.