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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 852 Session of  
2017

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INTRODUCED BY GREENLEAF, AUGUST 29, 2017

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, AUGUST 29, 2017

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AN ACT

1 Amending the act of October 18, 1988 (P.L.756, No.108), entitled  
2 "An act providing for the cleanup of hazardous waste sites;  
3 providing further powers and duties of the Department of  
4 Environmental Resources and the Environmental Quality Board;  
5 providing for response and investigations for liability and  
6 cost recovery; establishing the Hazardous Sites Cleanup Fund;  
7 providing for certain fees and for enforcement, remedies and  
8 penalties; and repealing certain provisions relating to the  
9 rate of the capital stock franchise tax," in preliminary  
10 provisions, further providing for definitions and providing  
11 for Governor may declare disaster emergency; in powers and  
12 duties, further providing for powers and duties of  
13 department; and, in liability and settlement procedures,  
14 further providing for responsible person.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. The definition of "hazardous substance" in  
18 section 103 of the act of October 18, 1988 (P.L.756, No.108),  
19 known as the Hazardous Sites Cleanup Act, is amended and the  
20 section is amended by adding a definition to read:

21 Section 103. Definitions.

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

1 \* \* \*

2 "Hazardous substance."

3 (1) Any element, compound or material which is:

4 (i) Designated as a hazardous waste under the act of  
5 July 7, 1980 (P.L.380, No.97), known as the Solid Waste  
6 Management Act, and the regulations promulgated thereto.

7 (ii) Defined or designated as a hazardous substance  
8 pursuant to the Federal Superfund Act.

9 (iii) Contaminated with a hazardous substance to the  
10 degree that its release or threatened release poses a  
11 substantial threat to the public health and safety or the  
12 environment as determined by the department.

13 (iv) Determined to be substantially harmful to  
14 public health and safety or the environment based on a  
15 standardized and uniformly applied department testing  
16 procedure and listed in regulations proposed by the  
17 department and promulgated by the Environmental Quality  
18 Board.

19 (v) A polyfluoroalkyl substance or perfluorinated  
20 chemical, including, but not limited to, perfluorooctane  
21 sulfonate (PFOS) and perfluorooctanoic acid (PFOA).

22 (1.1) A chemical substance or chemical compound not  
23 included under paragraph (1) that:

24 (i) the department determines to be the equivalent  
25 of a compound under paragraph (1) in accordance with  
26 section 301(16.1); or

27 (ii) is designated by executive order of the  
28 Governor as a chemical substance or chemical compound  
29 that poses a threat to public health and safety or the  
30 environment.

1           (2) The term does not include petroleum or petroleum  
2 products, including crude oil or any fraction thereof, which  
3 are not otherwise specifically listed or designated as a  
4 hazardous substance under paragraph (1); natural gas, natural  
5 gas liquids, liquified natural gas or synthetic gas usable  
6 for fuel or mixtures of natural gas and synthetic gas usable  
7 for fuel; or an element, substance, compound or mixture from  
8 a coal mining operation under the jurisdiction of the  
9 department or from a site eligible for funding under Title IV  
10 of the Surface Mining Control and Reclamation Act of 1977  
11 (Public Law 95-87, 30 U.S.C. § 1201 et seq.). The term shall  
12 also not include the following wastes generated primarily  
13 from the combustion of coal or other fossil fuels for the  
14 production of electricity: slag waste; flue gas emission  
15 control waste; and fly ash waste and bottom ash waste which  
16 is disposed of or beneficially used in accordance with the  
17 Solid Waste Management Act and the regulations promulgated  
18 thereto or which has been disposed of under a valid permit  
19 issued pursuant to any other environmental statute.

20       \* \* \*

21       "Special drinking water resource-impacted community." A  
22 municipality whose surface or groundwater resources used for  
23 public drinking water supply purposes have been impaired by  
24 emerging contaminants, methane or other gases or catastrophic  
25 releases of pollutants to such water resources for which  
26 treatment or alternative water supply development or procurement  
27 is required on an emergency basis to protect public health and  
28 safety.

29       \* \* \*

30       Section 2. The act is amended by adding a section to read:

1 Section 105. Governor may declare disaster emergency.

2 (a) General rule.--The Governor shall have emergency  
3 authority in accordance with 35 Pa.C.S. § 7301 (relating to  
4 general authority of Governor) to declare any municipality a  
5 special drinking water resource-impacted community based on the  
6 discovery of a release or threatened release of hazardous  
7 substances, a polyfluoroalkyl substance or perfluorinated  
8 chemical, including, but not limited to, perfluorooctane  
9 sulfonate (PFOS) and perfluorooctanoic acid (PFOA), if PFOS and  
10 PFOA are present in groundwater or surface water measured at or  
11 above 15 parts per trillion, individually or in the aggregate,  
12 or other pollutants in or to the municipality's public water  
13 supply system.

14 (b) Special drinking water resource-impacted communities.--  
15 The Governor may establish alternative or incident-specific  
16 drinking water standards and cleanup standards for impaired  
17 surface or groundwater resources in a special drinking water  
18 resource-impacted community. Standards established in accordance  
19 with this section shall take effect immediately upon  
20 establishment by the Governor and remain in effect for 24 months  
21 or until such time as the Governor has rescinded or amended the  
22 standard, the emergency condition and public health threat has  
23 been abated or, with respect to drinking water resources, either  
24 a final rulemaking is published by the Environmental Quality  
25 Board establishing a maximum contaminant level for the substance  
26 under provisions of the act of May 1, 1984 (P.L.206, No.43),  
27 known as the Pennsylvania Safe Drinking Water Act or a final  
28 rulemaking is published by the Environmental Protection Agency  
29 establishing a maximum contaminant level.

30 (c) Grants.--Special drinking water resource-impacted

1 communities shall be eligible to receive PENNVEST grants of up  
2 to \$1,000,000 per impacted water supply source. The grants may  
3 be used to provide treatment to impacted public water supplies,  
4 extension of water lines, booster stations, pressure management  
5 equipment, interconnection of private water users to public  
6 water supply systems and analytical sampling and to procure  
7 alternative water supply resources.

8 Section 3. Sections 301 and 701(b) of the act are amended by  
9 adding paragraphs to read:

10 Section 301. Powers and duties of department.

11 The department has the following powers and duties:

12 \* \* \*

13 (16.1) Within 12 months of the establishment of a  
14 maximum contaminant level, health advisory level or  
15 provisional health advisory level under the act of May 1,  
16 1984 (P.L.206, No.43), known as the Pennsylvania Safe  
17 Drinking Water Act, or a similar Federal law for any chemical  
18 substance or chemical compound not included in the definition  
19 of "hazardous substance," determine whether the chemical  
20 compound or chemical substance should be designated by  
21 regulation as a hazardous substance.

22 \* \* \*

23 Section 701. Responsible person.

24 \* \* \*

25 (b) Exceptions.--

26 \* \* \*

27 (6) No municipality, municipal authority or other public  
28 water supplier shall be a responsible person under this act  
29 due to the presence of a polyfluoroalkyl substance or  
30 perfluorinated chemical in wastewater treatment plant sludge,

1 water supply treatment residuals, spent filter media or  
2 similar facility operational wastes, where the presence of  
3 the polyfluoroalkyl substance or perfluorinated chemical is  
4 due to chemical characteristics of the entity's water supply  
5 source or discharges into the wastewater treatment facility.

6 \* \* \*

7 Section 4. This act shall take effect in 60 days.