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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1107 Session of  
2019

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INTRODUCED BY O'NEAL, TURZAI, KAUFER, MIHALEK, KAIL, FRITZ,  
TOOHIL, NELSON, PUSKARIC, GILLESPIE, GREINER, ROTHMAN,  
BERNSTINE, MOUL, KAUFFMAN, CAUSER, DUNBAR, ZIMMERMAN, OWLETT  
AND SCHMITT, APRIL 29, 2019

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, APRIL 29, 2019

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AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania  
2 Consolidated Statutes, establishing the Pennsylvania  
3 Permitting Commission and providing for its powers and  
4 duties.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Part I of Title 27 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a chapter to read:

9 CHAPTER 9

10 PENNSYLVANIA PERMITTING COMMISSION

11 Sec.

12 901. Scope of chapter.

13 902. Legislative findings.

14 903. Definitions.

15 904. Pennsylvania Permitting Commission.

16 905. Powers and duties of commission.

17 906. Regulations.

18 907. Report.

1 908. Construction.

2 909. Limitation.

3 § 901. Scope of chapter.

4 This chapter relates to the Pennsylvania Permitting  
5 Commission.

6 § 902. Legislative findings.

7 The General Assembly finds and declares as follows:

8 (1) It is the Commonwealth's constitutional  
9 responsibility to conserve and maintain Pennsylvania's public  
10 natural resources for generations yet to come.

11 (2) The Commonwealth fulfills this mission in part  
12 through the granting of permits and other approvals by the  
13 Department of Environmental Protection for specific regulated  
14 activities.

15 (3) The department's permitting function places  
16 significant responsibilities and obligations on the regulated  
17 community, including individuals, small businesses and local  
18 governments.

19 (4) Delays in making permitting decisions often have  
20 significant impacts on the individual, government and  
21 business planning processes and do not enhance the ability of  
22 the department to protect the Commonwealth's natural  
23 resources.

24 (5) Both the Commonwealth and its diverse population  
25 have a vital interest in timely answers within reasonable  
26 time frames but not at the expense of the environment.

27 § 903. Definitions.

28 The following words and phrases when used in this chapter  
29 shall have the meanings given to them in this section unless the  
30 context clearly indicates otherwise:

1 "Commission." The Pennsylvania Permitting Commission  
2 established in this chapter.

3 "Department." The Department of Environmental Protection of  
4 the Commonwealth.

5 "Displaced employee." A salaried employee of the department  
6 whose employment is terminated as a sole and direct result of  
7 the implementation of this chapter. The term shall not include a  
8 person who is terminated for cause or who retires or resigns, is  
9 furloughed or is otherwise separated from employment for any  
10 other reason.

11 "Environmental law or laws." All Commonwealth statutes and  
12 regulations promulgated in accordance with the act of July 31,  
13 1968 (P.L.769, No.240), referred to as the Commonwealth  
14 Documents Law, relating to the protection of the environment.  
15 The term includes all Federal statutes and regulations relating  
16 to protection of the environment to the extent they are  
17 administered or enforced by the Commonwealth.

18 "General permit" or "general plan approval." A permit or  
19 plan approval required by an environmental law or laws issued  
20 for a category of activities in which projects in that category  
21 have been determined to be similar in nature and capable of  
22 being adequately regulated utilizing standardized specifications  
23 and conditions without the necessity of applying for and  
24 obtaining an individual permit.

25 "Individual permit." A permit required by an environmental  
26 law or laws issued on an individual application to engage in an  
27 activity that contains site-specific terms and conditions.

28 "Local government." A county, city, borough, incorporated  
29 town or township of this Commonwealth.

30 "Permit by rule" or "plan approval by rule." An alternative

1 to an individual permit, general permit or general plan approval  
2 otherwise required by an environmental law or laws, by which a  
3 person is deemed to have an individual permit or coverage or  
4 authorization to proceed under a general permit or general plan  
5 approval through the issuance of a regulation to engage in a  
6 category of activities, without the necessity of applying for an  
7 individual permit or for coverage or authorization to proceed  
8 under a general permit or general plan approval, provided that  
9 the person complies with the conditions in the regulation.

10 § 904. Pennsylvania Permitting Commission.

11 (a) Establishment.--The Pennsylvania Permitting Commission  
12 is established.

13 (b) Membership.--

14 (1) The commission shall consist of five members who  
15 shall be appointed by the Governor no later than three months  
16 after the effective date of this section, by and with the  
17 advice and consent of two-thirds of all the members of the  
18 Senate, for a term of 10 years.

19 (2) The Governor may not nominate an individual as a  
20 member of the commission if, because of that individual's  
21 party affiliation under 25 Pa.C.S. Pt. IV (relating to voter  
22 registration) at the time of nomination, appointment of the  
23 individual would result in more than three members of the  
24 commission having the same party affiliation as the Governor.

25 (c) Qualifications.--

26 (1) Each member must be 25 years of age or older and a  
27 resident of this Commonwealth. At least two members shall be  
28 professional engineers licensed by the Commonwealth.

29 (2) No person may serve as a member who occupies an  
30 official relation to a business or entity engaged in an

1 activity regulated by the department or who holds any other  
2 appointive or elected office of the Commonwealth or political  
3 subdivision thereof.

4 (3) Members shall devote their full time to their  
5 official duties.

6 (4) No member shall hold any office or position, or be  
7 engaged in a business, employment or vocation, the duties of  
8 which are incompatible with the member's duties under this  
9 chapter.

10 (d) Ex officio member.--The Secretary of Environmental  
11 Protection shall serve on the commission as a nonvoting ex  
12 officio member. The secretary may be represented by a designee.

13 (e) Chairperson.--

14 (1) The Governor shall designate a member of the  
15 commission as the chairperson. The commission shall annually  
16 elect another member to serve as the vice chairperson.

17 (2) When present, the chairperson shall preside at all  
18 meetings, but in the chairperson's absence the vice  
19 chairperson or, in the vice chairperson's absence, a member  
20 designated by the chairperson, shall preside and shall  
21 exercise, for the time being, all the powers of the  
22 chairperson.

23 (3) The chairperson shall have such powers and duties as  
24 authorized by the commission under this chapter.

25 (f) Meetings.--The commission shall convene on a schedule to  
26 be determined by the chairperson, but at least once per month.

27 (g) Quorum.--

28 (1) A majority of the members of the commission serving  
29 in accordance with law shall constitute a quorum and the  
30 majority, acting unanimously, shall be required for any

1 action, including the making of an order or the ratification  
2 of an act done or order made by one or more members of the  
3 commission.

4 (2) No vacancy on the membership of the commission shall  
5 impair the right of a quorum of the members to exercise all  
6 the rights and perform all the duties of the commission.

7 (h) Compensation.--The executive committee as established in  
8 the act of April 9, 1929 (P.L.177, No.175), known as The  
9 Administrative Code of 1929, shall establish the compensation of  
10 the members.

11 (i) Vacancies.--Vacancies on the commission shall be filled  
12 in the same manner as appointments, except that an appointment  
13 to fill a vacancy shall be limited to the remainder of the  
14 vacating member's unexpired term.

15 § 905. Powers and duties of commission.

16 (a) General rule.--The commission shall have the power and  
17 its duty shall be to administer the permitting and plan approval  
18 processes vested in the department by law.

19 (b) Specific powers.--The commission shall have the power  
20 to:

21 (1) Develop and implement individual and general  
22 permitting and plan approval requirements that comply with  
23 applicable environmental laws.

24 (2) Take prompt action on applications to issue, modify,  
25 renew or transfer individual permits or coverage or  
26 authorization to proceed under general permits or plan  
27 approvals.

28 (3) Develop simplified application and permit and plan  
29 approval forms for permits and plan approvals necessary to  
30 engage in activities regulated by the department.

1           (4) Promulgate regulations allowing for permits by rule.

2           (5) Establish recordkeeping requirements necessary to  
3 administer this chapter.

4           (6) Establish reasonable permitting and plan approval  
5 fees to cover the cost of administration of this chapter.

6           (7) Enter into agreements with county conservation  
7 districts to assist in the performance of the commission's  
8 duties.

9           (8) Establish such advisory committees as the commission  
10 deems appropriate to assist in the performance of the  
11 commission's duties.

12       (c) Transfer of duties.--The duties of the department  
13 relating to the issuance, modification, renewal or transfer of  
14 an individual permit or coverage or authorization to proceed  
15 under a general permit or plan approval are transferred to the  
16 commission.

17       (d) Transfer of resources.--

18           (1) All allocations, appropriations, equipment, files,  
19 records, contracts, agreements, obligations and other  
20 material which are used, employed or expended in connection  
21 with the powers, duties or functions of the department  
22 relating to the issuance, modification, renewal or transfer  
23 of an individual permit or coverage or authorization to  
24 proceed under a general permit or plan approval are  
25 transferred to the commission with the same force and effect  
26 as if the appropriations had been made to and the items had  
27 been the property of the commission in the first instance and  
28 as if the contracts, agreements and obligations had been  
29 incurred or entered into by the commission.

30           (2) The appropriations, equipment and other items and

1 material transferred by this section shall include Federal  
2 grants and funds and other benefits from any Federal program.

3 (3) The transfer of resources as required by this  
4 subsection shall not include current or displaced employees  
5 of the department.

6 (e) Displaced employees.--

7 (1) The department shall provide the board with a list  
8 of the department's displaced employees.

9 (2) The board shall interview displaced employees  
10 interested in employment with the board prior to interviewing  
11 other candidates.

12 (3) The Office of the Governor may also take any steps  
13 it deems to be reasonable and appropriate to secure the  
14 transfer of the displaced employees to other executive  
15 agencies under the Governor's jurisdiction.

16 (f) Continuation.--All orders, permits, plan approvals,  
17 regulations, decisions and other actions of the department  
18 relating to the permitting or plan approval of a regulated  
19 activity whose functions have been transferred by this chapter  
20 to the commission shall remain in full force and effect until  
21 modified, repealed, superseded in or otherwise changed by  
22 appropriate action of the commission or this chapter.

23 (g) Cooperation.--The department shall cooperate with the  
24 commission and other Commonwealth agencies in order to  
25 facilitate the orderly transition of duties specified in this  
26 section no later than one year from the date of the appointment  
27 and confirmation of all commission members under section 904(b)  
28 (relating to Pennsylvania Permitting Commission), including  
29 cooperation to secure any necessary Federal approvals.

30 § 906. Regulations.



1 (a) Authority.--The commission may formulate, adopt,  
2 promulgate and repeal such regulations as are necessary to carry  
3 out the commission's duties specified in this chapter.

4 (b) Temporary regulations.--

5 (1) In order to facilitate the prompt implementation of  
6 this chapter, the commission may promulgate temporary  
7 regulations which shall expire no later than three years  
8 following the publication of the temporary regulations. The  
9 commission may promulgate temporary regulations not subject  
10 to:

11 (i) Sections 201, 202, 203, 204 and 205 of the act  
12 of July 31, 1968 (P.L.769, No.240), referred to as the  
13 Commonwealth Documents Law.

14 (ii) Section 204(b) of the act of October 15, 1980  
15 (P.L.950, No.164), known as the Commonwealth Attorneys  
16 Act.

17 (iii) The act of June 25, 1982 (P.L.633, No.181),  
18 known as the Regulatory Review Act.

19 (2) The authority provided to the commission to adopt  
20 temporary regulations under paragraph (1) shall expire three  
21 years following the publication of the temporary regulations.  
22 Regulations adopted after this period shall be promulgated as  
23 provided by law.

24 § 907. Report.

25 Eighteen months after the effective date of this section and  
26 every year on that date thereafter, the commission shall issue a  
27 report to the Governor and each member of the General Assembly  
28 on the general operation of the commission and the effectiveness  
29 of its operations, including, but not limited to, the timeliness  
30 of permitting and plan approval decisions, the effectiveness of

1 its electronic permitting and plan approval system and any other  
2 information the commission deems necessary and appropriate.

3 § 908. Construction.

4 This chapter shall supersede any conflicting provisions in  
5 any other State law unless the provision specifically references  
6 this chapter and provides to the contrary.

7 § 909. Limitation.

8 Nothing in this chapter shall be construed as limiting the  
9 rights of local governments in the lawful performance of their  
10 duties.

11 Section 2. This act shall take effect in 90 days.