

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2331 Session of 2022

INTRODUCED BY GLEIM, HAMM, ZIMMERMAN, KEEFER, PICKETT, FEE, RYAN, MILLARD, SCHLEGEL CULVER, JAMES, JOZWIAK AND ROWE, FEBRUARY 9, 2022

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 27, 2022

AN ACT

1 Amending the act of October 4, 1978 (P.L.864, No.167), entitled
2 "An act providing for the regulation of land and water use
3 for flood control and storm water management purposes,
4 imposing duties and conferring powers on the Department of
5 Environmental Resources, municipalities and counties,
6 providing for enforcement, and making appropriations,"
7 further providing for powers and duties of the Department of
8 Environmental Resources; and making editorial changes.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. The title of the act of October 4, 1978 (P.L.864,
12 No.167), known as the Storm Water Management Act, is amended to
13 read:

14 AN ACT

15 Providing for the regulation of land and water use for flood
16 control and storm water management purposes, imposing duties
17 and conferring powers on the Department of Environmental
18 [Resources] Protection, municipalities and counties,
19 providing for enforcement, and making appropriations.

20 Section 2. The definition of "department" in section 4 of

1 the act is amended to read:

2 Section 4. Definitions.

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

6 "Department." The Department of Environmental [Resources]
7 Protection of the Commonwealth of Pennsylvania.

8 * * *

9 Section 3. Section 9(a) introductory paragraph of the act is
10 amended to read:

11 Section 9. Review and approval by the department.

12 (a) The department shall, in consultation with the
13 Department of Community [Affairs] and Economic Development,
14 review all watershed storm water plans and revisions or
15 amendments thereto. It shall approve the plan if it determines:

16 * * *

17 Section 4. Section 14 heading and (a) introductory
18 paragraph, (2) and (4) of the act are amended and the ~~subsection~~ <--
19 ~~is amended by adding a paragraph~~ SECTION IS AMENDED BY ADDING A <--
20 SUBSECTION to read:

21 Section 14. Powers and duties of the Department of
22 Environmental [Resources] Protection.

23 (a) The Department of Environmental [Resources] Protection
24 shall have the power and its duty shall be to:

25 * * *

26 (2) Provide in cooperation with the Department of
27 Community [Affairs] and Economic Development technical
28 assistance to counties and municipalities in implementing
29 this act.

30 * * *

1 (4) Review, in cooperation with the Department of
2 Community [Affairs] and Economic Development, and approve all
3 watershed plans and revisions thereto.

4 * * *

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5 ~~(10.1) On an annual basis, conduct active water quality~~
6 ~~testing of all waterways identified as in need of a watershed~~
7 ~~storm water plan in accordance with 40 CFR Pt. 136 (relating~~
8 ~~to guidelines establishing test procedures for the analysis~~
9 ~~of pollutants). The following shall apply:~~

10 ~~(i) If the department does not have the physical or~~
11 ~~financial resources to conduct the water quality testing~~
12 ~~under this paragraph, the department shall rely on the~~
13 ~~following to calculate the water quality standards~~
14 ~~pertaining to a watershed storm water plan:~~

15 ~~(A) Water quality testing from the county~~
16 ~~conservation district, the Pennsylvania Fish and Boat~~
17 ~~Commission, the Department of Conservation and~~
18 ~~Natural Resources, the Pennsylvania Game Commission~~
19 ~~or an institution of higher education that receives~~
20 ~~State funding.~~

21 ~~(B) If the water quality testing under clause~~
22 ~~(A) is not submitted by the municipality, a water~~
23 ~~quality testing model may be used.~~

24 ~~(ii) If the water quality testing under this~~
25 ~~paragraph indicates that a waterway is in compliance with~~
26 ~~the Federal Water Pollution Control Act (62 Stat. 1155,~~
27 ~~33 U.S.C. § 1251 et seq.) and the water quality standards~~
28 ~~established by the department, the department shall grant~~
29 ~~a National Pollutant Discharge Elimination System permit~~
30 ~~waiver for storm water discharge for a small municipal~~

1 separate storm sewer system.

2 * * *

3 * * *

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4 (C) ON AN ANNUAL BASIS, THE DEPARTMENT SHALL CONDUCT ACTIVE
5 WATER QUALITY TESTING OF SURFACE WATERS WITHIN A WATERSHED STORM
6 WATER PLAN IN ACCORDANCE WITH 40 CFR PT. 136 (RELATING TO
7 GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF
8 POLLUTANTS). THE FOLLOWING SHALL APPLY:

9 (1) IF THE DEPARTMENT DOES NOT HAVE THE RESOURCES TO
10 CONDUCT THE WATER QUALITY TESTING REQUIRED UNDER THIS
11 SUBSECTION, THE DEPARTMENT SHALL RELY ON THE FOLLOWING TO
12 CALCULATE THE WATER QUALITY STANDARDS OF SURFACE WATERS
13 WITHIN A WATERSHED STORM WATER PLAN:

14 (I) WATER QUALITY TESTING FROM THE COUNTY
15 CONSERVATION DISTRICT, THE PENNSYLVANIA FISH AND BOAT
16 COMMISSION, THE DEPARTMENT OF CONSERVATION AND NATURAL
17 RESOURCES, THE PENNSYLVANIA GAME COMMISSION, AN
18 INSTITUTION OF HIGHER EDUCATION THAT RECEIVES STATE
19 FUNDING OR A PRIVATE LABORATORY ACCREDITED BY THE
20 DEPARTMENT TO PERFORM WATER QUALITY TESTING.

21 (II) IF THE DEPARTMENT HAS NOT RECEIVED WATER
22 QUALITY TESTING SPECIFIED UNDER SUBPARAGRAPH (I), A WATER
23 QUALITY TESTING MODEL.

24 (2) THE DEPARTMENT SHALL GRANT A NATIONAL POLLUTANT
25 DISCHARGE ELIMINATION SYSTEM PERMIT WAIVER TO A SMALL
26 MUNICIPAL SEPARATE STORM SEWER SYSTEM THAT IS IN COMPLIANCE
27 WITH THE CRITERIA SPECIFIED UNDER 40 CFR 122.32(D) OR (E)
28 (RELATING TO AS AN OPERATOR OF A SMALL MS4, AM I REGULATED
29 UNDER THE NPDES STORM WATER PROGRAM?).

30 Section 5. Section 17(a) introductory paragraph and (c) of

1 the act are amended to read:

2 Section 17. Grants and reimbursements to municipalities and
3 counties.

4 (a) The Department of Environmental [Resources] Protection
5 is authorized to administer grants to municipalities and
6 counties to assist or reimburse them for costs in preparing
7 official storm water management plans and actual administrative
8 and enforcement and implementation costs and revisions to
9 official plans for storm water management required by this act.
10 Grants and reimbursements shall be made from and to the extent
11 of funds appropriated by the General Assembly for such purposes,
12 and shall be made in accordance to rules and regulations adopted
13 by the Environmental Quality Board.

14 * * *

15 (c) If, in any fiscal year, appropriations are insufficient
16 to cover the costs or grants and reimbursement to all
17 municipalities and counties eligible for such grants and
18 reimbursements in that fiscal year, the Department of
19 Environmental [Resources] Protection shall report such fact to
20 the General Assembly and shall request appropriation of funds
21 necessary to provide the grants authorized in this section. If
22 such a deficiency appropriation is not enacted, any municipality
23 or county which has not received the full amount of the grant
24 for which it is eligible under this section shall be as a first
25 priority reimbursed from appropriations made in the next
26 successive fiscal year.

27 Section 6. This act shall take effect in 60 days.