

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 637 Session of 2021

INTRODUCED BY BAKER, J. WARD, BARTOLOTTA, VOGEL, STEFANO,
MENSCH, PITTMAN AND HUTCHINSON, MAY 4, 2021

REFERRED TO LOCAL GOVERNMENT, MAY 4, 2021

AN ACT

1 Amending the act of May 1, 1933 (P.L.103, No.69), entitled "An
2 act concerning townships of the second class; and amending,
3 revising, consolidating and changing the law relating
4 thereto," in storm water management plans and facilities,
5 further providing for fees.

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

8 Section 1. Section 2705 of the act of May 1, 1933 (P.L.103,
9 No.69), known as The Second Class Township Code, is amended to
10 read:

11 Section 2705. Fees.--(a) For the purposes of funding the
12 construction, maintenance and operation of storm water
13 management facilities, systems and management plans authorized
14 under this article, a township may assess reasonable and uniform
15 fees based in whole or in part on the characteristics of the
16 property benefited by the facilities, systems and management
17 plans, except as provided in subsections (b.1) and (b.2). The
18 fees assessed may not exceed the amount necessary to meet the
19 minimum requirements of the Federal Water Pollution Control Act

1 (62 Stat. 1155, 33 U.S.C. § 1251 et seq.), and Federal or State
2 laws governing the implementation of the Federal Water Pollution
3 Control Act, for the construction, maintenance and operation of
4 storm water management facilities, systems and management plans,
5 as specified in 40 CFR 122.26 (relating to storm water
6 discharges (applicable to State NPDES programs, see § 123.25)).
7 In establishing the fees, the township shall consider and
8 provide appropriate exemptions or credits for properties which
9 have installed and are maintaining storm water facilities that
10 meet best management practices and are approved or inspected by
11 the township.

12 (b) Any fee levied by the township can be assessed in one of
13 the following methods:

14 (1) On all properties in the township.

15 (2) On all properties benefited by a specific storm water
16 project.

17 (3) By establishing a storm water management district and
18 assessing the fee on all property owners in the district.

19 (b.1) (1) Notwithstanding any provision of subsection (a)
20 or (b) or of any other act to the contrary, a township or
21 municipal authority responsible for regulation of storm water
22 management or administration of storm water management
23 infrastructure within the township shall not assess on any
24 agricultural property whose total area of impervious surface
25 does not exceed thirty percent of the property's total land area
26 a fee that is greater than twice the median assessment fee
27 imposed on all properties in the township.

28 (2) Within sixty days of the effective date of this
29 subsection and no later than September 30 of each year
30 thereafter, the owner or operator of agricultural property that

1 qualifies for limitation in fee assessment under this subsection
2 must file a written notice with the levying agency that affirms
3 the property's intended use will continue to be operated as
4 agricultural use for the current and subsequent calendar year.
5 No administrative fee shall be imposed on any notice filed under
6 this paragraph.

7 (3) No later than thirty days before the date in which the
8 agricultural property no longer qualifies for the limitation in
9 fee assessment provided in this subsection, the owner or
10 operator of agricultural property must file a written notice
11 with the levying agency.

12 (b.2) In addition to the requirement for limitation in
13 assessment of fee prescribed in subsection (b.1), a township or
14 municipal authority responsible for regulation of storm water
15 management or administration of storm water management
16 infrastructure within the township shall further reduce the fee
17 to otherwise levied under subsections (a) and (b) on any
18 agricultural property for annual costs incurred by the owner or
19 operator for construction, maintenance, operation and financing
20 of conservation measures performed in furtherance or
21 facilitation of a Total Maximum Daily Load that has been
22 developed pursuant to the Federal Water Pollution Control Act
23 (62 Stat. 1155, 33 U.S.C. § 1251 et seq.). An owner or operator
24 of agricultural property claiming an additional reduction to the
25 fee imposed under subsection (b.1) must, by September 30 of each
26 calendar year provide sufficient written documentation of costs
27 incurred or to be incurred for that year. Any additional
28 reduction in fee that the owner or operator is otherwise
29 entitled to receive under this section shall be applied to the
30 fee to be levied for the subsequent calendar year. No

1 administrative fee shall be imposed for claims for additional
2 reduction in fee filed under this subsection.

3 (b.3) For purposes of subsections (b.1) and (b.2),
4 "agricultural property" shall include all contiguous area of
5 real property operated by a person as part of "agricultural
6 use," as defined in section 2 of the act of December 19, 1974
7 (P.L.973, No.319), known as the "Pennsylvania Farmland and
8 Forest Land Assessment Act of 1974," regardless of whether the
9 area is comprised of more than one deeded tract.

10 (c) Any fee collected for the purposes of storm water
11 management may only be used for the purposes authorized by this
12 article.

13 (d) The assessments shall be filed with the township
14 treasurer.

15 (e) An ordinance shall specify whether payments are to be
16 made by annual or more frequent installments.

17 Section 2. This amendatory act shall supersede the authority
18 and amount of fee that a township or municipal authority may
19 impose on agricultural property after the act's effective date.
20 All provisions of law are repealed to the extent they are in
21 conflict with this amendatory act.

22 Section 3. This act shall apply retroactively to January 1,
23 2020.

24 Section 4. This act shall take effect immediately.