
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 868 Session of
2021

INTRODUCED BY MUTH, FONTANA, COLLETT, KEARNEY AND CAPPELLETTI,
SEPTEMBER 17, 2021

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 17, 2021

AN ACT

1 Providing for registration of extraordinary water users;
2 imposing a water resource fee; establishing the Water Use
3 Fund; and providing for submission of a question to the
4 electorate authorizing incurring of indebtedness for water-
5 related environmental initiatives.

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

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Pennsylvania
11 Water Resource Act.

12 Section 102. Definitions.

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

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

18 "Department." The Department of Environmental Protection of
19 the Commonwealth.

20 "Electric utility." A corporation, person, agency, authority
21 or other legal entity or instrumentality aligned with
22 distribution facilities for delivery of electric energy for use
23 primarily by the public.

24 "Electric utility generator." A generator:

25 (1) that is owned by an electric utility or a jointly
26 owned generator with the greatest share of the generator
27 being electric utility owned; or

28 (2) with two or more owners that have equal shares of
29 ownership in the generator if one of the owners is an
30 electric utility.

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

9 "Fund." The Water Use Fund established under this act.

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

13 "PENNVEST." The Pennsylvania Infrastructure Investment
14 Authority established under the act of March 1, 1988 (P.L.82,
15 No.16), known as the Pennsylvania Infrastructure Investment
16 Authority Act.

17 "Returned water." Water that has been placed back into the
18 waters of this Commonwealth, whether the water is diminished in
19 quality or not.

20 "Watersheds." The Susquehanna, Ohio, Delaware, Potomac,
21 Erie, Genesee, Elk and Gunpowder watersheds.

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

24 Section 103. Scope of act.

25 This act applies to extraordinary nonmunicipal water
26 withdrawals by for-profit businesses.

27 CHAPTER 3

28 WATER RESOURCE PROTECTION

29 Section 301. Registration.

30 (a) General rule.--No extraordinary water user may withdraw

1 water from a groundwater or surface water source for a
2 nonmunicipal purpose without filing a registration document with
3 the department.

4 (b) Registration document.--The registration document must
5 be submitted on a form prepared by the department and must
6 include the following information:

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

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

9 (3) The type of water source.

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

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

14 (6) The location and description of the water well,
15 canal, tunnel or piping and other works or equipment through
16 which the water is to be withdrawn.

17 (7) The amount, in gallons, of water withdrawn on an
18 average day of operation during the preceding year and the
19 number of days during the preceding year when water was
20 withdrawn.

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

24 (9) The location, means and expected condition of any
25 returned water.

26 Section 302. Water resource fee.

27 (a) Fee.--An extraordinary water user shall pay to the
28 Commonwealth the following fees:

29 (1) Except as provided in paragraph (3), for water
30 withdrawn and subsequently returned to the water source, a

1 water resource fee of \$0.0001 per gallon for water
2 withdrawals greater than 10,000 gallons per day for
3 nonmunicipal purposes.

4 (2) Except as provided in paragraph (3), for water
5 withdrawn and consumed, a water resource fee of \$0.001 per
6 gallon for water consumption greater than 10,000 gallons per
7 day for nonmunicipal purposes.

8 (3) If the extraordinary water user is an electric
9 utility generator that withdraws or consumes water, a fee of
10 \$1.00 per megawatt hour of electricity generated and sold.

11 (b) Water consumption calculation.--

12 (1) For purposes of calculating the fee under subsection
13 (a)(2), if the extraordinary water user:

14 (i) measures water use by meter, the difference
15 between the values of daily withdrawn water and daily
16 returned water shall be reported as the amount consumed;
17 or

18 (ii) does not measure metered, withdrawn and
19 returned water or, due to evaporation or method of use,
20 finds it impossible to accurately measure water consumed,
21 the amount consumed shall be based on the department's
22 consumptive use coefficients.

23 (2) The department shall determine which extraordinary
24 water users are subject to paragraph (1)(ii) and shall
25 develop coefficients for those extraordinary water users.

26 (c) Coordination with other fees.--The fees, if any, paid by
27 an extraordinary water user under the act of July 7, 1961
28 (P.L.518, No.268), known as the Delaware River Basin Compact,
29 and the act of July 17, 1968 (P.L.368, No.181), referred to as
30 the Susquehanna River Basin Compact Law, to the Delaware River

1 Basin Commission or the Susquehanna River Basin Commission, at
2 the rates set on the effective date of this section, shall be
3 subtracted from fees owed under this section.

4 Section 303. Distribution of water resource fees.

5 (a) Establishment of Water Use Fund.--The Water Use Fund is
6 established in the State Treasury. The money of the fund is
7 appropriated on a continuing basis to the departments, in the
8 amounts and for the purposes specified in subsection (b).

9 (b) Funding source and distribution.--The fees collected
10 under section 302 shall be paid into the fund. The money of the
11 fund shall be used annually as follows:

12 (1) The amount of \$30,000,000 to the department for
13 water-related programs and activities with any balance of
14 that amount for general government operations.

15 (2) The amount of \$25,000,000 to the Department of
16 Conservation and Natural Resources for water-related programs
17 and activities with any balance of that amount for general
18 government operations.

19 (3) The amount of \$11,000,000 to the Department of
20 Agriculture for water-related programs and activities with
21 any balance of that amount for general government operations.

22 (4) The amount of \$5,000,000 to the Pennsylvania Fish
23 and Boat Commission for water-related programs and activities
24 with any balance of that amount for general government
25 operations.

26 (5) The balance of money in the fund to PENNVEST, which
27 shall distribute the remainder under section 505 or use the
28 balance to service the debt for any bonds issued under
29 Chapter 5.

30 CHAPTER 5

1 WATERSHED PROTECTION BONDS

2 Section 501. Authorization to incur indebtedness.

3 Pursuant to the provisions of section 7(a)(3) of Article VIII
4 of the Constitution of Pennsylvania, PENNVEST may submit the
5 question of a bond issuance in the amount of up to
6 \$3,000,000,000 for the protection of watersheds, water
7 resources, water environments, fresh water sources, the
8 furthering of water conservation and other water-related
9 environmental initiatives to the electors at the next election
10 in the year that PENNVEST decides to issue bonds.

11 Section 502. Certification.

12 The Secretary of the Commonwealth shall certify the question
13 to the county board of elections.

14 Section 503. Question to electorate.

15 The question under section 501 shall be in the following
16 form:

17 Do you favor authorizing the Commonwealth to incur an
18 indebtedness of up to \$ _____, to be repaid using funds
19 generated under the act of _____ (P.L. _____, No. _____), known as the
20 Pennsylvania Water Resource Act, for the issuance of bonds
21 for the maintenance and protection of watersheds, water
22 resources, the furthering of water conservation and other
23 water-related environmental initiatives?

24 Section 504. Referendum procedure.

25 The referendum shall be conducted in accordance with the act
26 of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania
27 Election Code, except that:

28 (1) the requirements for advertising or notice related
29 to the question are waived;

30 (2) the requirements for a statement under section 201.1

1 of the Pennsylvania Election Code are waived; and

2 (3) the authority of the Secretary of the Commonwealth
3 to determine the form of the question is abrogated.

4 Section 505. Use of proceeds.

5 Proceeds of borrowing authorized under this chapter shall be
6 used for the maintenance and the protection of watersheds, water
7 resources, water environments, fresh water sources, the
8 furthering of water conservation and other water-related
9 environmental initiatives and shall be allocated to watersheds
10 based on the percentage of fees generated under section 302 in
11 each watershed respectively. The bond must be used and paid for
12 proportionally to the proceeds generated by the fees collected
13 from water users.

14 CHAPTER 7

15 MISCELLANEOUS PROVISIONS

16 Section 701. Regulations.

17 The department shall promulgate rules and regulations as
18 needed to administer and enforce this act.

19 Section 702. Effective date.

20 This act shall take effect in 60 days.