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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 546 Session of  
2023

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INTRODUCED BY ZIMMERMAN, PROBST, PICKETT, HAMM, T. JONES, GLEIM  
AND KEEFER, MARCH 20, 2023

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MARCH 20, 2023

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AN ACT

1 Amending the act of May 1, 1984 (P.L.206, No.43), entitled "An  
2 act providing for safe drinking water; imposing powers and  
3 duties on the Department of Environmental Resources in  
4 relation thereto; and appropriating certain funds," further  
5 providing for powers and duties of department.

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

8 Section 1. Section 5(a), (b), (c), (e), (g) and (h) of the  
9 act of May 1, 1984 (P.L.206, No.43), known as the Pennsylvania  
10 Safe Drinking Water Act, are amended to read:

11 Section 5. Powers and duties of department.

12 (a) State to assume primary enforcement.--The department  
13 shall adopt and implement a public water supply program which  
14 includes[, but is not limited to,] those program elements  
15 necessary to assume State primary enforcement responsibility  
16 under the Federal act. The public water supply program shall  
17 include[, but not be limited to,] and be limited to maximum  
18 contaminant levels or treatment technique requirements  
19 establishing drinking water quality standards, monitoring,

1 reporting, recordkeeping and analytical requirements,  
2 requirements for public notification, standards for  
3 construction, operation and modifications to public water  
4 systems, emergency procedures, standards for laboratory  
5 certification, and compliance and enforcement procedures as  
6 required to enforce the Federal act.

7 (b) Department to establish compliance procedures.--The  
8 department shall develop and implement procedures as may be  
9 necessary and appropriate in order to obtain compliance with  
10 [this] the Federal act or the rules and regulations promulgated,  
11 or permits issued hereunder pursuant to the Federal act. Such  
12 procedures shall include, but not be limited to:

13 (1) Monitoring and inspection.

14 (2) Maintaining an inventory of public water systems in  
15 the Commonwealth.

16 (3) A systematic program for conducting sanitary surveys  
17 of public water systems throughout the Commonwealth.

18 (4) The establishment and maintenance of a program for  
19 the certification of laboratories conducting analytical  
20 measurements of drinking water contaminants specified in the  
21 drinking water standards; and the assurance of the  
22 availability to the department of laboratory facilities  
23 certified by the administrator and capable of performing  
24 analytical measurements of all contaminants specified in the  
25 drinking water standards.

26 (5) The establishment and maintenance of a permit  
27 program concerning plans and specifications for the design  
28 and construction of new or substantially modified public  
29 water systems, which program:

30 (i) Requires all such plans and specifications, or

1           either, to be first approved by the department before any  
2           work thereunder shall be commenced.

3           (ii) Requires that all such projects are designed to  
4           comply with any rules and regulations [of the department]  
5           under the Federal act concerning their construction and  
6           operation; and once completed will be capable of  
7           compliance with the drinking water standards; and will  
8           deliver water with sufficient volume and pressure to the  
9           users of such systems.

10          (c) Department to enforce drinking water standards.--The  
11          department shall have the power and its duties shall be to issue  
12          such orders and initiate such proceedings as may be necessary  
13          and appropriate for the enforcement of drinking water standards,  
14          any other provision of law notwithstanding. These actions shall  
15          include, but are not limited to, the following:

16               (1) To institute in a court of competent jurisdiction,  
17               proceedings against any person to compel compliance with the  
18               provisions of [this] the Federal act, or the drinking water  
19               standards or conditions of permits issued hereunder pursuant  
20               to this act.

21               (2) To initiate criminal prosecutions, including  
22               issuance of summary citations by agents of the department.

23               (3) To do any and all things and actions not  
24               inconsistent with any provision of this act for the effective  
25               enforcement of [this] the Federal act, rules and regulations  
26               or permits issued hereunder pursuant to this act.

27          \* \* \*

28          (e) Department may require information from public water  
29          systems.--The department may require any public water system to  
30          install, use and maintain such monitoring equipment and methods

1 to perform such sampling, to maintain and retain such records of  
2 information from monitoring and sampling activities, to submit  
3 such reports of monitoring and sampling results and to provide  
4 such other information as may be required to determine  
5 compliance or noncompliance with [this] the Federal act or with  
6 regulations promulgated pursuant to [this] the Federal act.

7 \* \* \*

8 (g) Search warrants.--An agent or employee of the department  
9 may apply for a search warrant to any Commonwealth official  
10 authorized to issue a search warrant for the purposes of  
11 inspecting or examining any property, building, premise, place,  
12 book, record or other physical evidence, of conducting tests or  
13 taking samples. Such warrant shall be issued upon probable  
14 cause. It shall be sufficient probable cause to show any of the  
15 following:

16 (1) the inspection, examination, test or sampling is  
17 pursuant to a general administrative plan to determine  
18 compliance with [this] the Federal act;

19 (2) the agent or employee has reason to believe that a  
20 violation of [this] the Federal act has occurred [or may  
21 occur]; or

22 (3) the agent or employee has been refused access to the  
23 property, building, premise, place, book, record or physical  
24 evidence, or has been prevented from conducting tests or  
25 taking samples.

26 (h) Delegation of functions and fiscal matters.--The  
27 department is authorized to:

28 (1) Enter into agreements, contracts or cooperative  
29 arrangements under such terms and conditions as may be deemed  
30 appropriate with other State agencies with approval by an act

1 of the General Assembly, Federal agencies, interstate compact  
2 agencies, political subdivisions or other persons, including  
3 agreements with local health departments to delegate one or  
4 more of its regulatory functions to inspect, monitor and  
5 enforce [the act and] drinking water standards pursuant to  
6 the Federal act. The department shall monitor and supervise  
7 activities of each local health department conducted pursuant  
8 to such an agreement, for consistency with the department's  
9 rules, regulations and policies. A local health department,  
10 where it exists in each of the counties of the Commonwealth,  
11 may elect to administer and enforce any of the provisions of  
12 this act together with the department in accordance with the  
13 established policies, procedures, guidelines, standards and  
14 rules and regulations of the department. Local health  
15 departments electing to administer and enforce the provisions  
16 of this act shall be funded through contractual agreements  
17 within the department whenever program activity exceeds the  
18 minimum program requirements established under the former act  
19 of April 22, 1905 (P.L.260, No.182), entitled "An act to  
20 preserve the purity of the waters of the State, for the  
21 protection of the public health," adopted by the Advisory  
22 Health Board under the provisions of the act of August 24,  
23 1951 (P.L.1304, No.315), known as the Local Health  
24 Administration Law. The department is authorized to provide  
25 funds to local health departments entering into an agreement  
26 to contract pursuant to this paragraph which shall be  
27 considered to be agents of the department for the purpose of  
28 enforcement of [this] the Federal act.

29 (2) Notwithstanding the grant of powers in paragraph

30 (1), in any case where administration and enforcement of this

1 act by a local health department shall conflict with  
2 administration and enforcement by the department, the  
3 department shall so notify the local health department of the  
4 conflict and administration and enforcement by the department  
5 shall take precedence over administration and enforcement by  
6 a local health department.

7 (3) Receive financial and technical assistance from the  
8 Federal Government and other public or private agencies where  
9 appropriate.

10 (4) Establish fiscal controls and accounting procedures.

11 (5) Establish and collect fees for conducting  
12 inspections, laboratory analyses and certifications as may be  
13 necessary.

14 Section 2. This act shall take effect in 60 days.