

SENATE, No. 1776

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1997

By Senators BENNETT, ADLER and McNamara

1 AN ACT concerning watershed preservation, protection and  
2 management, and providing for the expenditure of monies dedicated  
3 pursuant to Article VIII, Section II, paragraph 6, subparagraph (a)  
4 of the New Jersey Constitution.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. This act shall be known and may be cited as the "Watershed  
10 Protection and Management Act of 1997."

11  
12 2. The Legislature finds and declares that, on November 5, 1996,  
13 the voters overwhelmingly approved an amendment to the New Jersey  
14 Constitution dedicating the equivalent of 4 percent of the revenues  
15 annually generated by the Corporation Business Tax for financing the  
16 costs of hazardous discharge site remediation, upgrading hazardous  
17 underground storage tanks, and water quality pollution monitoring,  
18 watershed based water resource planning and management, and  
19 nonpoint source pollution prevention projects; and that, of the 4  
20 percent dedicated for these purposes, a minimum of one-sixth, or a  
21 minimum of \$5,000,000, whichever is less, is annually dedicated for  
22 the purposes of water quality point and nonpoint source monitoring,  
23 watershed based water resource planning and management and  
24 nonpoint source pollution prevention projects.

25 The Legislature further finds and declares that the Department of  
26 Environmental Protection currently administers the State's water  
27 quality planning, monitoring, permitting and enforcement programs;  
28 that the department has recently begun to change its long-standing,  
29 permit-based approach to water resource protection and water  
30 pollution control to that of a watershed-based planning approach; that  
31 such an approach would greatly increase the overall efficiency and  
32 precision with which pollution control measures could be applied; and  
33 that the federal Clean Water Act establishes policy guidelines requiring  
34 states to clean up polluted waters and protect waters that meet water  
35 quality standards.

36 The Legislature further finds and declares that the 1997 Fiscal Year  
37 funding levels must be increased in future years to enable the

1 department to meet the requirements of the Federal Clean Water Act;  
2 and that the constitutionally dedicated and appropriated additional  
3 monies, when used to fund a watershed-based approach to water  
4 resource management and pollution control, will greatly assist the  
5 State in protecting waters that meet water quality standards and in  
6 attaining and complying with federal water quality standards.

7 The Legislature therefore determines that it is in the public interest  
8 and consistent with the intent of Article VIII, Section II, paragraph 6,  
9 subparagraph (a) of the New Jersey Constitution, to provide statutory  
10 guidance to the department for the use of the dedicated monies; that  
11 the dedicated monies should be used to support an expansion of  
12 department efforts in the area of water resource management; and that  
13 the State should adopt a watershed-based approach to most effectively  
14 and efficiently comply with federal guidelines.

15

16 3. As used in this act:

17 "Department" means the Department of Environmental Protection;

18 "Federal Act" means the federal "Clean Water Act" (33 U.S.C. §  
19 1251 et seq.);

20 "Total maximum daily load" or "TMDL" means the sum of  
21 individual point and nonpoint sources of pollution, other sources such  
22 as tributaries or adjacent segments, and allocations to a reserve or  
23 margin of safety for an individual pollutant;

24 "Watershed" means a geographic area within which water,  
25 sediments, and dissolved materials drain to a particular receiving  
26 waterbody;

27 "Watershed management activity" means activities or projects  
28 undertaken by the department or a watershed management group to  
29 improve the condition or prevent further degradation of a watershed,  
30 and may include, but need not be limited to, public meetings to discuss  
31 and exchange information on watershed issues, the establishment and  
32 operation of a stakeholders advisory group or groups dedicated to  
33 preserving and protecting a watershed, the monitoring, water quality  
34 modeling or assessment of the condition of a watershed, the  
35 development of policy goals to reduce the amount of pollutants  
36 discharged into a watershed, the development of projects designed to  
37 enhance or restore a watershed, the development, in consultation with  
38 the department, of a watershed management plan, or the reassessment  
39 of a watershed to determine whether the policy goals or the objectives  
40 of the watershed management plan have been attained;

41 "Watershed management area" means a geographic area in the  
42 State, as designated by the department, within which may be found one  
43 or more watersheds;

44 "Watershed management group" means a group that represents the  
45 various interests within one or more watersheds located in a watershed  
46 management area that is established by the department to improve the

1 condition or prevent further degradation of a watershed or watersheds,  
2 and shall include local and county government officials and  
3 representatives of the business and environmental community; and  
4 "Watershed management plan" means a plan developed by the  
5 department or a watershed management group, in consultation with  
6 the department, designed to improve the condition or prevent further  
7 degradation of a watershed or watersheds, and shall include a  
8 determination of the total maximum daily load amount of pollutants  
9 that can be discharged into the watershed or watersheds targeted by  
10 the plan, and the implementation of water quality based effluent limits.

11

12 4. The "Watershed Management Fund," hereinafter referred to as  
13 the "fund," is hereby established as a nonlapsing, revolving fund in the  
14 Department of Environmental Protection. The fund shall be annually  
15 credited with all monies appropriated pursuant to the requirements of  
16 Article VIII, Section II, paragraph 6, subparagraph (a) of the New  
17 Jersey Constitution. Any interest that accrues on monies in the fund  
18 shall be credited to the fund.

19

20 5. Monies in the fund shall be used only for the following purposes:

21 a. The development and adoption of a priority list of water quality  
22 limited waterbodies pursuant to the requirements of section  
23 303(d)(1)(A) of the Federal Act (33 U.S.C.§1313);

24 b. The monitoring and assessment of all State waters pursuant to  
25 the requirements of section 305(b) of the Federal Act (33 U.S.C.§  
26 1315);

27 c. The development and delineation of watershed management  
28 areas;

29 d. The identification of potential causes of the use impairment or  
30 water quality standard violations related to waterbodies on the priority  
31 list required pursuant to sections 303(d)(1)(A) and 305(b) of the  
32 Federal Act by means of assessment of reliable data, including, but not  
33 necessarily limited to, point sources, nonpoint sources, habitat  
34 degradation, and hydrologic changes. This identification shall include  
35 a broad-based intensive survey monitoring program that shall  
36 supplement the existing chemical, biological and toxics-in-biota  
37 monitoring networks, and that shall intensively sample watersheds or  
38 segments of watersheds on a periodic basis and establish a detailed  
39 watershed-wide assessment process. The number of monitoring sites  
40 within a watershed shall be determined by existing water quality, land  
41 uses, known and potential pollution sources, and the amount of  
42 available historical data. The supplemental survey monitoring  
43 program, shall be designed to provide:

44 (1) a detailed profile of water quality over specified time periods;

45 (2) an identification and detailed profile of both point and nonpoint  
46 pollution sources;

- 1 (3) a quantification of pollution impacts on receiving waters from  
2 both point and nonpoint sources; and
- 3 (4) water quality modeling based upon amounts of point and  
4 nonpoint sources of pollution and land use;
- 5 e. The development of total maximum daily loads and water  
6 quality-based effluent limitations for water quality limited waterbodies,  
7 as required pursuant to section 303(d)(1)(C) of the Federal Act, and  
8 any regulations adopted pursuant thereto;
- 9 f. The development and presentation of data on the department's  
10 Geographic Information System (GIS);
- 11 g. The development and adoption of pollution prevention best  
12 management practices to control point and nonpoint sources of  
13 pollution;
- 14 h. The characterization of land use and land cover in each  
15 watershed;
- 16 i. The development and adoption of a watershed management plan;  
17 and
- 18 j. The development and implementation of a local watershed  
19 protection grant program, as described pursuant to section 6 of this  
20 act.
- 21
- 22 6. The department shall establish a grant program to assist local  
23 watershed management groups. A watershed management group may  
24 apply to the department for a grant pursuant to this section on forms  
25 prescribed by the department. The application shall state the  
26 objectives of the group, including the watershed management activities  
27 proposed and for which grant monies are requested. The department  
28 shall establish guidelines for the development of a local watershed  
29 management plan. The department shall provide guidance and  
30 technical assistance to watershed management groups seeking  
31 assistance in the development of a watershed management plan.  
32
- 33 7. a. Any monies appropriated to the department pursuant to  
34 Article VIII, Section II, paragraph 6, subparagraph (a) of the New  
35 Jersey Constitution, and deposited in the fund, shall be used to support  
36 the purposes required pursuant to section 5 of this act to the extent  
37 that such purposes constitute activities in addition to those  
38 undertaken by the department in fiscal year 1997.
- 39 b. Monies shall be appropriated to the department pursuant to  
40 Article VIII, Section II, paragraph 6, subparagraph (a) of the New  
41 Jersey Constitution, deposited in the fund and allocated for the  
42 following purposes:
- 43 (1) For the first three years immediately following the effective  
44 date of this act, 100 percent of the monies shall be used to support the  
45 costs of watershed management program development and planning,  
46 regulatory integration, and the purposes established in subsections a.

1 through i. of section 5 of this act; and

2 (2) Commencing three years from the effective date of this act, 50  
3 percent of the monies shall be used to support the purposes identified  
4 in subsection j. of section 5 of this act and 50 percent of the monies  
5 shall be used to support the purposes established in subsections a.  
6 through i. of section 5 of this act.

7

8 8. There is appropriated to the Watershed Management Fund from  
9 the General Fund, pursuant to the requirements of Article VIII,  
10 Section II, paragraph 6, subparagraph (a) of the New Jersey  
11 Constitution, the sum of \$2,500,000.

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13 9. This act shall take effect immediately.

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#### STATEMENT

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18 This bill would provide the statutory direction for the State to  
19 adopt and implement a watershed-based approach to water quality  
20 management and pollution control, to be funded by the monies  
21 dedicated pursuant to Article VIII, Section II, paragraph 6,  
22 subparagraph (a) of the New Jersey Constitution. This portion of the  
23 constitutional amendment approved by the voters in November, 1996,  
24 dedicated a minimum of 2/3 of one percent, or a minimum of  
25 \$5,000,000, whichever is less, of the revenues annually generated by  
26 the Corporation Business Tax for the purposes of water quality point  
27 and nonpoint source monitoring, watershed based water resource  
28 planning and management and nonpoint source pollution prevention  
29 projects.

30 The bill would establish in the Department of Environmental  
31 Protection (DEP) a "Watershed Management Fund," to which the  
32 annually dedicated and appropriated monies would be credited. The  
33 bill requires that monies in this fund be used by the DEP only for:

34 (1) the development and adoption of a priority list of  
35 environmentally threatened waterbodies;

36 (2) the monitoring and assessment of all State waters;

37 (3) the development and delineation of watershed management  
38 areas;

39 (4) the identification of potential causes of the degradation of  
40 waterbodies on the priority list;

41 (5) the development of total maximum daily loads and water  
42 quality-based effluent limitations for targeted waterbodies;

43 (6) the development and presentation of data on the DEP's  
44 Geographic Information System (GIS);

45 (7) the adoption of best management practices to prevent pollution  
46 and to control point and nonpoint sources of pollution;

1 (8) the characterization of land use and land cover in each  
2 watershed;

3 (9) the adoption of a watershed management plan; and

4 (10) the development and implementation of a local watershed  
5 protection grant program.

6 The bill also provides direction for the expenditure of dedicated  
7 monies, such that expenditures in the first three years would be limited  
8 to watershed management and planning by the DEP. Commencing  
9 three years after the date of enactment, DEP programs would receive  
10 half of the dedicated monies and the other half would be used for  
11 grants to local watershed management groups.

12 The bill appropriates \$2.5 million to the DEP in FY 1997, which  
13 represents half of the maximum annual amount that would be  
14 dedicated pursuant to the constitutional amendment.

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18

19 The "Watershed Protection and Management Act of 1997."