

[First Reprint]
SENATE, No. 1776

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1997

By Senators BENNETT, ADLER, McNamara, Baer and
McGreevey

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

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SEN committee amendments adopted February 10, 1997.

1 such an approach would greatly increase the overall efficiency and
2 precision with which pollution control measures could be applied; and
3 that the federal Clean Water Act establishes policy guidelines requiring
4 states to clean up polluted waters and protect waters that meet water
5 quality standards.

6 The Legislature further finds and declares that the 1997 Fiscal Year
7 funding levels must be increased in future years to enable the
8 department to meet the requirements of the Federal Clean Water Act;
9 and that the constitutionally dedicated and appropriated additional
10 monies, when used to fund a watershed-based approach to water
11 resource management and pollution control, will greatly assist the
12 State in protecting waters that meet water quality standards and in
13 attaining and complying with federal water quality standards.

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

22

23 3. As used in this act:

24 "Department" means the Department of Environmental Protection;

25 "Federal Act" means the federal "Clean Water Act" (33 U.S.C. §
26 1251 et seq.);

27 "Total maximum daily load" ¹[or "TMDL"]¹ means the sum of
28 individual point and nonpoint sources of pollution, other sources such
29 as tributaries or adjacent segments, and allocations to a reserve or
30 margin of safety for an individual pollutant;

31 "Watershed" means a geographic area within which water,
32 sediments, and dissolved materials drain to a particular receiving
33 waterbody;

34 "Watershed management activity" means activities or projects
35 undertaken by the department ¹, the Pinelands Commission created
36 pursuant to section 4 of P.L.1979, c.111 (C.13:18A-1 et seq.),¹ or a
37 watershed management group to improve the condition or prevent
38 further degradation of a watershed, and may include, but need not be
39 limited to, public meetings to discuss and exchange information on
40 watershed issues, the establishment and operation of a stakeholders
41 advisory group or groups dedicated to preserving and protecting a
42 watershed, the monitoring, water quality modeling or assessment of
43 the condition of a watershed, the development of policy goals to
44 reduce the amount of pollutants discharged into a watershed, the
45 development of projects designed to enhance or restore a watershed,
46 the development, in consultation with the department, of a watershed

1 management plan, or the reassessment of a watershed to determine
2 whether the policy goals or the objectives of the watershed
3 management plan have been attained;

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

7 "Watershed management group" means a group that represents the
8 various interests within one or more watersheds located in a watershed
9 management area that is established by the department to improve the
10 condition or prevent further degradation of a watershed or watersheds,
11 and shall include local and county government officials ¹, officials of
12 regional planning agencies,¹ and representatives of the business and
13 environmental community; and

14 "Watershed management plan" means a plan developed by the
15 department ¹[or],¹ a watershed management group ¹, or the Pinelands
16 Commission¹, in consultation with the department, designed to
17 improve the condition or prevent further degradation of a watershed
18 or watersheds, and shall include a determination of the total maximum
19 daily load amount of pollutants that can be discharged into the
20 watershed or watersheds targeted by the plan, ¹[and] ¹ the
21 implementation of water quality based effluent limits ¹for point
22 sources, and regulatory and best management practices to control non-
23 point sources of pollution¹.

24

25 4. The "Watershed Management Fund," hereinafter referred to as
26 the "fund," is hereby established as a nonlapsing, revolving fund in the
27 Department of Environmental Protection. The fund shall be annually
28 credited with all monies appropriated pursuant to the requirements of
29 Article VIII, Section II, paragraph 6, subparagraph (a) of the New
30 Jersey Constitution. Any interest that accrues on monies in the fund
31 shall be credited to the fund.

32

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

34 a. The development and adoption of a priority list of water quality
35 limited waterbodies pursuant to the requirements of section
36 303(d)(1)(A) of the Federal Act (33 U.S.C.§1313);

37 b. The monitoring and assessment of all State waters pursuant to
38 the requirements of section 305(b) of the Federal Act (33 U.S.C.§
39 1315);

40 c. The ¹[development and]¹ delineation of watershed management
41 areas ¹and stream segments¹ ;

42 d. The identification of potential causes of the use impairment or
43 water quality standard violations related to waterbodies on the priority
44 list required pursuant to sections 303(d)(1)(A) and 305(b) of the
45 Federal Act by means of assessment of reliable data, including, but not
46 necessarily limited to, ¹identification of all¹ point sources, nonpoint

1 sources, habitat degradation, and hydrologic changes. This
2 identification shall include a broad-based intensive survey monitoring
3 program that shall supplement the existing chemical, biological and
4 toxics-in-biota monitoring networks, and that shall intensively sample
5 watersheds or segments of watersheds on a periodic basis and establish
6 a detailed watershed-wide assessment process. The number of
7 monitoring sites within a watershed shall be determined by existing
8 water quality, land uses, known and potential pollution sources, and
9 the amount of available historical data. The supplemental survey
10 monitoring program, shall be designed to provide:

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

12 (2) an identification and detailed profile of both point and nonpoint
13 pollution sources;

14 (3) a quantification of ¹pollutant loadings and¹ pollution impacts
15 on receiving waters from both point and nonpoint sources; and

16 (4) water quality modeling based upon amounts of point and
17 nonpoint sources of pollution and land use;

18 e. The development of total maximum daily loads and water
19 quality-based effluent limitations for water quality limited waterbodies,
20 as required pursuant to section 303(d)(1)(C) of the Federal Act, and
21 any regulations adopted pursuant thereto;

22 f. The development and presentation of data on the department's
23 Geographic Information System (GIS);

24 g. The development and adoption of pollution prevention best
25 management practices to control point and nonpoint sources of
26 pollution;

27 h. The characterization of land use and land cover in each
28 watershed;

29 i. The development and adoption of a watershed management plan;
30 ¹[and]¹

31 j. ¹The development and planning by the department of a watershed
32 management program and the intergration of the department's
33 regulations with this program;

34 k.¹ The development and implementation of a ¹[local]¹ watershed
35 protection grant program, as described pursuant to section 6 of this
36 act.

37

38 6. The department shall establish a grant program to assist ¹[local]¹
39 watershed management groups. A watershed management group may
40 apply to the department for a grant pursuant to this section on forms
41 prescribed by the department. The application shall state the
42 objectives of the group, including the watershed management activities
43 proposed and for which grant monies are requested. The department
44 shall establish guidelines for the development of ¹[a local]¹ watershed
45 management ¹[plan] plans by watershed management groups¹. The
46 department shall provide guidance and technical assistance to

1 watershed management groups seeking assistance in the development
2 of a watershed management plan ¹and in the implementation of
3 watershed management activities¹ .

4
5 7. a. Any monies appropriated to the department pursuant to
6 Article VIII, Section II, paragraph 6, subparagraph (a) of the New
7 Jersey Constitution, and deposited in the fund, shall be used to support
8 the purposes ¹[required pursuant to] enumerated in¹ section 5 of this
9 act to the extent that such purposes constitute activities in addition to
10 those undertaken by the department in fiscal year 1997.

11 b. Monies shall be appropriated to the department pursuant to
12 Article VIII, Section II, paragraph 6, subparagraph (a) of the New
13 Jersey Constitution, deposited in the fund and allocated for the
14 following purposes:

15 (1) For the first three years immediately following the effective
16 date of this act, 100 percent of the monies shall be used ¹[to support
17 the costs of watershed management program development and
18 planning, regulatory integration, and] for¹ the purposes established in
19 subsections a. through ¹[i.] j.¹ of section 5 of this act; and

20 (2) Commencing three years from the effective date of this act, 50
21 percent of the monies shall be used to support the purposes identified
22 in subsection ¹[j.] k.¹ of section 5 of this act and 50 percent of the
23 monies shall be used to support the purposes established in subsections
24 a. through i. of section 5 of this act.

25
26 8. There is appropriated to the Watershed Management Fund from
27 the General Fund, pursuant to the requirements of Article VIII,
28 Section II, paragraph 6, subparagraph (a) of the New Jersey
29 Constitution, the sum of \$2,500,000.

30
31 9. This act shall take effect immediately.

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33
34
35
36 The "Watershed Protection and Management Act of 1997."