

[Second Reprint]  
SENATE, No. 1776

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1997

By Senators BENNETT, ADLER, McNamara,  
Baer, McGreevey and Kyrillos

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:**

<sup>1</sup> Senate SEN committee amendments adopted February 10, 1997.

<sup>2</sup> Senate SBA committee amendments adopted March 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" <sup>1</sup>[or "TMDL"]<sup>1</sup> 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 <sup>2</sup>or as defined in  
31 subsequent regulations of the department<sup>2</sup>;

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

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

1 the development, in consultation with the department, of a watershed  
2 management plan, or the reassessment of a watershed to determine  
3 whether the policy goals or the objectives of the watershed  
4 management plan have been attained;

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

8 "Watershed management group" means a group that represents the  
9 various interests within one or more watersheds located in a watershed  
10 management area <sup>2</sup>[that] which group<sup>2</sup> is <sup>2</sup>[established] recognized<sup>2</sup>  
11 by the department <sup>2</sup>as an entity whose purpose is<sup>2</sup> to improve the  
12 condition or prevent further degradation of a watershed or watersheds  
13 <sup>2</sup>[, and shall]. A watershed management group may<sup>2</sup> include local and  
14 county government officials <sup>1</sup>, officials of regional planning agencies,<sup>1</sup>  
15 and representatives of the business and environmental community; and

16 "Watershed management plan" means a plan developed by the  
17 department <sup>1</sup>[or],<sup>1</sup> a watershed management group <sup>1</sup>, or the Pinelands  
18 Commission<sup>1</sup>, in consultation with the department, designed to  
19 improve the condition or prevent further degradation of a watershed  
20 or watersheds, and shall include <sup>2</sup>consideration of groundwater quality  
21 and quantity, water supply quality and quantity,<sup>2</sup> a determination of the  
22 <sup>2</sup>need for<sup>2</sup> total maximum daily load amount of pollutants that can be  
23 discharged into the watershed or watersheds targeted by the plan,  
24 <sup>1</sup>[and]<sup>1</sup> the implementation of water quality based effluent limits <sup>1</sup>for  
25 point sources, and regulatory and best management practices to  
26 control non-point sources of pollution<sup>1</sup>.

27

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

35

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

37 a. The development and adoption of a priority list of water quality  
38 limited waterbodies pursuant to the requirements of section  
39 303(d)(1)(A) of the Federal Act (33 U.S.C. §1313);

40 b. The monitoring and assessment of all State waters pursuant to  
41 the requirements of section 305(b) of the Federal Act (33 U.S.C. §  
42 1315);

43 c. The <sup>1</sup>[development and]<sup>1</sup> delineation of watershed management  
44 areas <sup>1</sup>and stream segments<sup>1</sup>;

45 d. The identification of potential causes of the use impairment or  
46 water quality standard violations related to waterbodies on the priority

1 list required pursuant to sections 303(d)(1)(A) and 305(b) of the  
2 Federal Act by means of assessment of reliable data, including, but not  
3 necessarily limited to, <sup>1</sup>identification of <sup>2</sup>[all]<sup>2</sup> <sup>1</sup> point sources,  
4 nonpoint sources, habitat degradation, and hydrologic changes. This  
5 identification shall include a broad-based intensive survey monitoring  
6 program that shall supplement the existing chemical, biological and  
7 toxics-in-biota monitoring networks, and that shall intensively sample  
8 watersheds or segments of watersheds on a periodic basis and establish  
9 a detailed watershed-wide assessment process. The number of  
10 monitoring sites within a watershed shall be determined by existing  
11 water quality, land uses, known and potential pollution sources, and  
12 the amount of available historical data. The supplemental survey  
13 monitoring program, shall be designed to provide:

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

15 (2) an identification and detailed profile of both point and nonpoint  
16 pollution sources;

17 (3) a quantification of <sup>1</sup>pollutant loadings and<sup>1</sup> pollution impacts  
18 on receiving waters from both point and nonpoint sources; and

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

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

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

27 g. The development and adoption of pollution prevention best  
28 management practices to control point and nonpoint sources of  
29 pollution;

30 h. The characterization of land use and land cover in each  
31 watershed;

32 i. The development and adoption of a watershed management plan;  
33 <sup>1</sup>[and]<sup>1</sup>

34 j. <sup>1</sup>The development and planning by the department of a watershed  
35 management program and the <sup>2</sup>[intergration] integration<sup>2</sup> of the  
36 department's regulations with this program;

37 k.<sup>1</sup> The development and implementation of a <sup>1</sup>[local]<sup>1</sup> watershed  
38 protection <sup>2</sup>loan and<sup>2</sup> grant program, as described pursuant to section  
39 6 of this act.

40

41 6. <sup>2</sup>a. (1)<sup>2</sup> The department shall establish a <sup>2</sup>loan and<sup>2</sup> grant  
42 program to assist <sup>1</sup>[local]<sup>1</sup> watershed management groups. A  
43 watershed management group may apply to the department for a <sup>2</sup>loan  
44 or<sup>2</sup> grant pursuant to this section on forms prescribed by the  
45 department. The application shall state the objectives of the group,  
46 including the watershed management activities proposed and for which

1 <sup>2</sup>loan or<sup>2</sup> grant monies are requested.

2 <sup>2</sup>(2) A person who has a NJPDES permit to discharge pollutants  
 3 into the waters of the State pursuant to P.L.1977, c.74 (C.58:10A-1  
 4 et seq.), may receive a loan or grant as a watershed management group  
 5 as provided in this subsection only if that person provides at least a 50  
 6 percent match to that loan or grant. The match may be made either as  
 7 a monetary payment or as an in-kind contribution. Any person who  
 8 has a NJPDES permit and who accepts a loan or grant pursuant to this  
 9 subsection shall agree not to use any of the loan or grant monies for  
 10 the purpose of complying with NJPDES permit requirements.<sup>2</sup>

11 The department shall establish guidelines for the development of <sup>1</sup>[a  
 12 local]<sup>1</sup> watershed management <sup>2</sup>[plan] plans by watershed management  
 13 groups<sup>1</sup>. The department shall provide guidance and technical  
 14 assistance to watershed management groups seeking assistance in the  
 15 development of a watershed management plan <sup>1</sup>and in the  
 16 implementation of watershed management activities<sup>1</sup>.

17  
 18 7. a. Any monies appropriated to the department pursuant to  
 19 Article VIII, Section II, paragraph 6, subparagraph (a) of the New  
 20 Jersey Constitution, and deposited in the fund, shall be used to support  
 21 the purposes <sup>1</sup>[required pursuant to] enumerated in<sup>1</sup> section 5 of this  
 22 act to the extent that such purposes constitute activities in addition to  
 23 those undertaken by the department in fiscal year 1997.

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

28 (1) <sup>2</sup>[For the first three years immediately following the effective  
 29 date of this act,] From the monies appropriated in fiscal year 1997  
 30 pursuant to section 8 of this act,<sup>2</sup> 100 percent of the monies shall be  
 31 used <sup>1</sup>[to support the costs of watershed management program  
 32 development and planning, regulatory integration, and] for<sup>1</sup> the  
 33 purposes established in subsections a. through <sup>1</sup>[i.] j.<sup>1</sup> of section 5 of  
 34 this act; <sup>2</sup> [and]<sup>2</sup>

35 (2) <sup>2</sup> [Commencing three years from the effective date of this act,  
 36 50] From the monies appropriated in fiscal year 1998, not more than  
 37 35<sup>2</sup> percent of the monies <sup>2</sup>[shall] may<sup>2</sup> be used to support the  
 38 purposes identified in subsection <sup>1</sup>[j.] k.<sup>1</sup> of section 5 of this act and  
 39 <sup>2</sup>[50 percent] the remainder<sup>2</sup> of the monies shall be used to support the  
 40 purposes established in subsections a. through i. of section 5 of this act  
 41 <sup>2</sup>; and

42 (3) From the monies appropriated in fiscal year 1999 and every  
 43 year thereafter, not more than 50 percent of the monies may be used  
 44 to support the purposes identified in subsection k. of section 5 of this  
 45 act and the remainder of the monies shall be used to support the  
 46 purposes established in subsections a. through i. of section 5 of this

1 act.

2 c. The department may not expend any monies that is or may be  
3 appropriated by the Legislature for the purposes identified in  
4 subsection k. of section 5 of this act until the department submits a list  
5 of proposed loan or grant recipients to the Legislature, and the  
6 Legislature, by the passage of a concurrent resolution, approves that  
7 list. The Legislature may approve all or part of that list and only those  
8 persons listed in the concurrent resolution may receive a watershed  
9 protection loan or grant from the department. The concurrent  
10 resolution may limit or specify the amount of any loan or grant and  
11 may establish any other condition of receiving the loan or grant. The  
12 list of proposed recipients submitted to the Legislature by the  
13 department shall specify the name of the proposed recipient, the  
14 amount of the loan or grant to be awarded, the intended purpose of the  
15 loan or grant, the watershed or watersheds involved, and any other  
16 information relevant to the award of the loan or grant.

17 d. The department may not expend any monies in fiscal year 1999  
18 and thereafter, that is or may be appropriated by the Legislature for  
19 the purposes identified in subsection k. of section 5 of this act, until  
20 the department has adopted rules and regulations, pursuant to the  
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
22 seq.), governing the submission and review of loan and grant  
23 applications.

24 e. Any transfer of funds authorized by this section shall require the  
25 approval of the Joint Budget Oversight Committee or its successor<sup>2</sup>  
26

27 8. There is appropriated <sup>2</sup>[to the Watershed Management Fund]<sup>2</sup>  
28 from the General Fund, pursuant to the requirements of Article VIII,  
29 Section II, paragraph 6, subparagraph (a) of the New Jersey  
30 Constitution, <sup>2</sup>to the Department of Environmental Protection, <sup>2</sup>the  
31 sum of <sup>2</sup>[\$2,500,000] \$4,900,000 for deposit into the Watershed  
32 Management Fund created pursuant to section 4 of this act<sup>2</sup>.

33

34 9. This act shall take effect immediately.

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38

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