

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2385 Session of
2020

INTRODUCED BY ZIMMERMAN, KEEFER, STRUZZI, GREINER, PICKETT,
MILLARD, FREEMAN, RYAN, ROWE, GAYDOS, RADER, JAMES, ECKER,
MOUL AND FRITZ, APRIL 6, 2020

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 6, 2020

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

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

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

14 (1) Monitoring and inspection.

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

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

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

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

1 (i) Requires all such plans and specifications, or
2 either, to be first approved by the department before any
3 work thereunder shall be commenced.

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

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

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

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

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

28 * * *

29 (e) Department may require information from public water
30 systems.--The department may require any public water system to

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

8 * * *

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

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

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

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

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

29 (1) Enter into agreements, contracts or cooperative
30 arrangements under such terms and conditions as may be deemed

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

30 (2) Notwithstanding the grant of powers in paragraph

1 (1), in any case where administration and enforcement of this
2 act by a local health department shall conflict with
3 administration and enforcement by the department, the
4 department shall so notify the local health department of the
5 conflict and administration and enforcement by the department
6 shall take precedence over administration and enforcement by
7 a local health department.

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

11 (4) Establish fiscal controls and accounting procedures.

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

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