

Pennsylvania Environmental Council, S.B. 1261, Testimony, September 18, 2012



Good afternoon. I am Patrick Starr, Executive Vice President of the Pennsylvania Environmental Council (PEC). On behalf of PEC's board, staff, and members, I thank you for inviting me to speak with the Local Government Committee today.

PEC is a statewide nonprofit organization that focuses on both policy and project work. Better management of stormwater has been identified by our board of directors as an issue of strategic significance to Pennsylvania. I would like to offer our perspective on how stormwater management remains a vexing issue for communities throughout the Commonwealth, and how Senate Bill 1261 is an important step towards solving this environmental and public safety challenge.

As you well know, rain fall is a cherished resource, but stormwater results from the built footprint we've made on our landscapes. This is a problem 400 years in the making in Pennsylvania, so communities need to be provided with sufficient authority and resources to begin the process of both preventing and mitigating the effects of stormwater. It won't be solved overnight.

Senate Bill 1261 does one very important thing; it ensures that local governments have the ability to form an authority – as they already do for other water and wastewater needs – that will provide greater coordination and options to communities to manage stormwater. That's it – it doesn't impose new fees, and it doesn't promulgate new regulations. It merely provides communities with an important option to locally address this enormous issue. And if we choose not to provide more options, the costs could greatly escalate. Municipalities are already learning this fact first hand.

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Streams in the more heavily developed areas of Pennsylvania simply can't handle the volume of water and the sediments, nutrients and other pollutants being flushed into them. Obviously, flooding is life-threatening and damaging to property. Additionally stream channel erosion is a threat to private property and public infrastructure such as bridges and road. The pollutants undermine drinking water quality as well as recreational fishing and boating.

Sediment is now one of the greatest pollutants in Pennsylvania's urbanized streams and is lumped in with other "non-point source" pollutants conveyed by stormwater. Excess sediments results from a combination of stream channel erosion and conveyances from construction sites and fields and lawns. Channels clogged with soil and gravel literally smother and choke aquatic life that is the base of the freshwater food chain.

Besides the choking sediments, stormwater conveys other non-point pollutants such as nutrients from lawns, animal feces, hydro-carbons from roads and parking lots, and other chemicals such as pesticides into streams. Additionally the sediments accumulate and clog the stream channel exacerbating over-bank flooding.

Like so many other problems, with stormwater management, the devil is truly in the details, requiring careful attention to subdivision ordinances, landowner property management, and the management of public infrastructure such as roads and stormwater basins.

We are asking our local governments to take on a complex set of responsibilities. While we cherish and respect our tradition of local governments in Pennsylvania, DEP's MS4 program puts municipalities in a new and somewhat awkward position. The more than 900 municipalities become regulated entities by DEP i.e. *permittees* – not a relationship they like one bit or that they are used to. Furthermore, most are ill-prepared to take on

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these new responsibilities. Our municipalities need tools, which is what SB 1261 provides them.

What does the MS4 program ask them to do? Municipalities find themselves “on the hook” for water quality objectives related to the stormwater conveyance infrastructure in their community that might be a ditch, a culvert, or a stormwater basin on private property! This responsibility for the infrastructure may not be entirely NEW, but the active management of this infrastructure towards a goal of reducing pollution is new, unfamiliar, and requires talents and expertise that many municipalities simply don’t have.

The old “life and safety” solution of conveying stormwater away from property as fast as possible and discharging it into the most convenient waterway simply won’t “cut it” any more. It isn’t enough just to discharge the stormwater (even at a controlled rate) particularly if the municipality is located in a watershed with a TMDL pollutant management goal, municipalities are supposed to help clean it up!

Now what does all this have to do with Municipal Authorities? The General Assembly provided for Municipal Authorities in order to provide municipalities a means to manage challenging problems such as treatment of drinking water and sewage that required expertise that municipalities didn’t have, and/or afforded municipalities a way to manage and reduce costs through economies of scale whereby infrastructure and program costs were distributed amongst a larger numbers of ratepayers. Through a series of stormwater conversations PEC convened across the Commonwealth, we heard from municipal officials that some would choose to work collaboratively on these problems even at a watershed-scale, and the formation or adaptation of an existing authority would enable this.

Similarly, these services could be paid for by users of the services and not from the general revenues of the municipal tax base. Municipal authorities have the ability, if they so choose, to assess fees for services being provided based upon usage of the service.

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Stormwater management presents exactly these conditions. Specialized staff, equipment and infrastructure maintenance activities are required. There may be economies of scale realized in sharing these resources. And there can be specific fees levied in accordance with the volume of stormwater that is conveyed from a given property that recognizes while it may be raining on all of us, stormwater is produced by conditions that property owners create and can manage.

Across the nation and increasingly in Pennsylvania, stormwater management fees are being assessed based on how much stormwater a given property generates. This is often based upon the percentage of a site that is “impervious” and factors in different stormwater rates for types of surfaces such as pavement, rooftops, and lawns versus wooded sites or tall grass meadows. Municipal authorities are set up to assess and charge fees, to collect payment, and to efficiently deliver services that address customer needs.

So the simple act of including stormwater management in the Municipal Authorities Act provides local municipal officials with another tool in their toolbox. This amendment provides permission, but it imposes not specific solution.

In closing, there is nothing novel about what this legislation does. It simply enables Pennsylvanians to solve problems and removes a perceived barrier to getting on with the work of cleaning up Pennsylvania’s streams, recharging our groundwater, reducing damaging and life-threatening flooding, and making good on Pennsylvania’s constitutional guarantee that the citizens of this great Commonwealth are entitled by right *to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment.*”

Thank you for the opportunity to address this committee, and I welcome any questions you might have.