

## No. 208

## AN ACT

## SB 1550

Amending the act of January 24, 1966 (1965, P.L. 1535, No. 537), entitled "An act providing for the planning and regulation of community and individual and community sewage disposal systems; requiring municipalities to submit plans for systems in their jurisdiction; authorizing grants to municipalities; requiring permits for persons installing such systems; authorizing the Department of Health to adopt rules, regulations, standards and procedures; creating an advisory committee; providing remedies and prescribing penalties," providing for the planning and regulation of community sewage systems and individual sewage systems; requiring municipalities to submit plans for systems in their jurisdiction; authorizing grants; requiring permits for persons installing such systems; authorizing the Department of Environmental Resources to adopt and administer rules, regulations, standards and procedures; creating an advisory committee; providing remedies; prescribing penalties and making an appropriation.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title, act of January 24, 1966 (1965, P.L. 1535, No. 537), known as the "Pennsylvania Sewage Facilities Act," is amended to read:

## AN ACT

Providing for the planning and regulation of community *sewage systems* and individual **[and community]** sewage **[disposal]** systems; requiring municipalities to submit plans for systems in their jurisdiction; authorizing grants **[to municipalities]**; requiring permits for persons installing such systems; authorizing the Department of **[Health] Environmental Resources** to adopt *and administer* rules, regulations, standards and procedures; creating an advisory committee; providing remedies and prescribing penalties.

Section 2. Section 2 of the act, amended March 4, 1970 (P.L. 113, No. 43), is amended to read:

Section 2. Definitions.—As used in this act:

(1) "Individual sewage system" means a single system of piping, tanks or other facilities serving one or two lots and collecting and disposing of sewage in whole or in part into the soil of the property or into any waters of this Commonwealth.

(2) "Community sewerage system" means any system, whether publicly or privately owned, for the collection and disposal of sewage or industrial wastes of a liquid nature, or both, including various devices for the treatment of such sewage or industrial wastes serving three or more individual lots.

(3) "Municipality" means a city, town, township, or borough, or any combination thereof acting cooperatively or jointly.

(4) "Subdivision" means the division of a single tract or other parcel of land, or a part thereof, into three or more lots, and shall also include changes in street lines or lot lines.

(5) "Lot" means a part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided.

(6) "Official plan for sewerage systems" means a comprehensive plan for the provision of adequate sewerage systems adopted by a municipality or municipalities possessing authority to provide or jurisdiction over the provision of such systems and submitted to and approved by the State Department of Health as provided herein.

(7) "Department" means the Department of Health of the Commonwealth of Pennsylvania.

(8) "Sewage" means any substances that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation.

(9) "Secretary" means the Secretary of Health of the Commonwealth of Pennsylvania.

(10) "Person" shall include any individual, copartnership, association or private corporation.

(11) "Realty improvement" means any proposed new residence or other building, the useful occupancy of which will require the installation or erection of a sewage disposal system other than one which is to be served by a community water supply and a community sewage system.

(12) "Advisory committee" means the special committee created by the provisions of this act.

(13) "Rural residence" means a structure occupied or intended to be occupied by not more than two families on a tract of land of ten acres or more.]

*"Advisory committee" means the special committee created by the provisions of the act.*

*"Certification board" means the administrative board within the department created by section 11 of this act.*

*"Community sewage system" means any system, whether publicly or privately owned, for the collection of sewage or industrial wastes of a liquid nature from two or more lots, and the treatment and/or disposal of the sewage or industrial waste on one or more of the lots or at any other site.*

*"Department" means the Department of Environmental Resources of the Commonwealth of Pennsylvania.*

*"Environmental Hearing Board" means the board established pursuant to section 1921-A of The Administrative Code of 1929 for the purposes set forth in that section.*

*"Environmental Quality Board" means the board established pursuant to section 1920-A of The Administrative Code of 1929 for the purposes set forth in that section.*

***“Individual sewage system” means a system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of this Commonwealth or by means of conveyance to another site for final disposal; an alternate individual sewage system shall mean any individual sewage system not heretofore recognized by rules, regulations and standards of the department.***

***“Local agency” means a municipality, or any combination thereof acting cooperatively or jointly under the laws of the Commonwealth, county, county department of health or joint county department of health.***

***“Lot” means a part of a subdivision or a parcel of land used as a building site or intended to be used for building purposes, whether immediate or future, which would not be further subdivided. Whenever a lot is used for a multiple family dwelling or for commercial or industrial purposes, the lot shall be deemed to have been subdivided into an equivalent number of single family residential lots as determined by estimated sewage flows.***

***“Municipality” means a city, town, township, or borough.***

***“Official plan” means a comprehensive plan for the provision of adequate sewage systems adopted by a municipality or municipalities possessing authority or jurisdiction over the provision of such systems and submitted to and approved by the State Department of Environmental Resources as provided herein.***

***“Person” shall include any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term “person” shall include the members of an association, partnership or firm and the officers of any local agency or municipal, public or private corporation for profit or not for profit.***

***“Rural residence” means a structure occupied or intended to be occupied by not more than two families on a tract of land of ~~ten~~ acres or more.***

***“Secretary” means the Secretary of Environmental Resources of the Commonwealth of Pennsylvania.***

***“Sewage” means any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or aquatic life, or to the use of water for domestic water supply or for recreation, or which constitutes pollution under the act of June 22, 1937 (P.L.1987, No.394), known as “The Clean Streams Law,” as amended.***

*“Sewage enforcement officer” means the official of the local agency who issues and reviews permit applications and conducts such investigations and inspections as are necessary to implement the act and the rules and regulations thereunder.*

*“Subdivision” means the division or redivision of a lot, tract or other parcel of land into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines. The enumerating of lots shall include as a lot that portion of the original tract or tracts remaining after other lots have been subdivided therefrom.*

Section 3. Sections 3, 4, 5 and 6 of the act are amended to read:

Section 3. **[Rules, Regulations, Standards and Procedures.—**The department shall have the power and its duties shall be to adopt such rules, regulations, standards and procedures as shall be necessary to enable it to carry out the provisions of this act, to wit: adoption of standards for construction and installation of community individual and community sewage disposal systems and standards for construction, installation and maintenance of community sewage treatment plants, requirements for disbursement of State and Federal funds to municipalities for planning, personnel and construction of water supply and sewage disposal systems, and review and acceptance of official plans.] *Declaration of Policy.—It is hereby declared to be the policy of the Commonwealth of Pennsylvania through this act:*

*(1) To protect the public health, safety and welfare of its citizens through the development and implementation of plans for the sanitary disposal of sewage waste.*

*(2) To promote intermunicipal cooperation in the implementation and administration of such plans by local government.*

*(3) To prevent and eliminate pollution of waters of the Commonwealth by coordinating planning for the sanitary disposal of sewage wastes with a comprehensive program of water quality management.*

*(4) To provide for the issuance of permits for on-lot sewage disposal systems by local government in accordance with uniform standards and to encourage intermunicipal cooperation to this end.*

*(5) To provide for and insure a high degree of technical competency within local government in the administration of this act.*

*(6) To encourage the use of the best available technology for on-site sewage disposal systems.*

*(7) To insure the rights of citizens on matters of sewage disposal as they may relate to this act and the Constitution of this Commonwealth.*

Section 4. **Advisory Committee.—**An advisory committee shall be appointed within three months of the passage of this act and biennially thereafter, membership of which shall be composed of one representative from the following organizations, the name of said representative to be submitted to the secretary within ten days of receipt

of request for same: Pennsylvania State Association of Township Supervisors, Pennsylvania State Association of Boroughs, Pennsylvania League of Cities, Pennsylvania State Association of Township Commissioners, Pennsylvania *State* Association of County Commissioners, Pennsylvania Association of Plumbing, *Heating, Cooling, Contractors, Inc.*, Pennsylvania Society of Professional Engineers, Mortgage Bankers' Association, Pennsylvania [Home] Builders Association, Pennsylvania Society of Architects, County Health Departments, [Federal Housing Administration, Bureau of Community Development,] Pennsylvania State University, Pennsylvania Municipal Authorities Association, Pennsylvania Section of the American Water Works Association, [National Water Companies Conference,] Water Pollution Association of Pennsylvania, *American Society of Civil Engineers, Pennsylvania Environmental Health Association, Farmers Home Administration, Consulting Engineers Council of Pennsylvania, National Association of Water Companies, Pennsylvania Vacation Land Developers Association, United States Department of Housing and Urban Development, Pennsylvania Department of Commerce, Pennsylvania Department of Community Affairs, Office of State Planning and Development, Pennsylvania Bar Association*, and such other organizations having a direct interest in the area of water and sewage as the secretary deems necessary.

The advisory committee shall [be responsible for annual review of the implementation of the provisions of this act,] *have the opportunity to review [and recommendation of] proposed rules, regulations, standards and procedures [adopted by] and shall review existing rules, regulations, standards and procedures of* the department pursuant to this act.

The recommendations of the advisory committee shall be submitted to the secretary who shall give due consideration to the same.

Section 5. Official Plans.—(a) Each municipality shall submit to the department an officially adopted plan for [sewerage systems serving] *sewage services for* areas within its jurisdiction within such reasonable period as the department may prescribe, and shall from time to time submit revisions of such plan as may be [necessary] *required by rules and regulations adopted hereunder or by order of the department: Provided, however, That a municipality may at any time initiate and submit to the department revisions of the said plan. Revisions shall conform to the requirements of subsection (d) of this section and the rules and regulations of the department.*

(b) [When more than one municipality has authority over sewerage systems within an area, the required plan or any revision thereof may be submitted jointly by the municipalities concerned or jointly by one or more of the municipalities with the concurrence of the others.] *Any person who is a resident or property owner in a municipality may request the department to order the municipality to revise its official*

*plan where said person can show that the official plan is inadequate to meet the resident's or property owner's sewage disposal needs. Such request may only be made after a prior demand upon and refusal by the municipality to so revise its official plan. The request to the department shall contain a description of the area of the municipality in question and an enumeration of all reasons advanced by said person to show the official plan's inadequacy. Such person shall give notice to the municipality of the request to the department.*

(c) [Every official plan, and any revision thereof, shall delineate areas in which community sewerage systems are now in existence, areas where community sewage disposal systems are planned to be available within a ten year period and areas where community sewage disposal systems are not planned to be available within a ten year period.] *The required plan or any revision thereof may be submitted jointly by two or more municipalities.*

(d) Every official plan shall:

*(1) Delineate areas in which community sewage systems are now in existence, areas experiencing problems with sewage disposal including a description of said problems, areas where community sewage systems are planned to be available within a ten year period, areas where community sewage systems are not planned to be available within a ten year period and all subdivisions existing or approved.*

[(1)] (2) Provide for the orderly extension of community interceptor sewers in a manner consistent with the *comprehensive plans and needs [and plans]* of the whole area, provided that this section shall not be construed to limit the development of such community facilities at an accelerated rate different than that set forth in the official plan;

[(2)] (3) Provide for adequate sewage treatment facilities which will prevent the discharge of untreated or inadequately treated sewage or other waste into any waters or otherwise provide for the safe and sanitary treatment of sewage or other waste;

[(3)] (4) Take into consideration all aspects of planning, zoning, population estimates, engineering and economics so as to delineate with all practicable precision those portions of the area which community systems may reasonably be expected to serve within ten years, after ten years, and any areas in which the provision of such services is not reasonably foreseeable;

[(4)] (5) Take into consideration any existing State plan affecting the development, use and protection of water *and other natural resources*;

[(5)] (6) Establish procedures for delineating and acquiring, on a time schedule consistent with that established in clause [(3)] (4) of this subsection, necessary rights-of-way or easements for community *sewage systems*;

[(6)] (7) Set forth a time schedule and proposed methods of financing the construction and operation of the planned community *sewage* systems, together with the estimated cost thereof;

[(7)] (8) Be reviewed by appropriate official planning agencies within a municipality, including a planning agency with areawide jurisdiction if one exists, *in accordance with the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code," as amended*, for consistency with programs of planning for the area, and all such reviews shall be transmitted to the department with the proposed plans; and

[(8) Include provision for periodic revision of the plan.]

(9) *Designate municipal responsibility for implementation of the plan.*

(e) The department is hereby authorized to approve or disapprove official plans for [sewerage] *sewage* systems submitted in accordance with this act within one year of date of submission *and revisions of official plans within such lesser time as the regulations shall stipulate.*

(f) The department is authorized to provide technical assistance to counties, municipalities and authorities in coordinating official plans for [sewerage] *sewage* systems required by this act, including revisions of such plans.

(g) For purposes of this act, the department is authorized to cooperate [with all appropriate Federal, State, interstate, and local units of government, and] with appropriate private organizations.

Section 6. Grants *and Reimbursements* Authorized.—(a) The department is authorized to administer grants to counties, municipalities and authorities to assist them in preparing official plans *and revisions to official plans* for [sewerage] *sewage* systems required by this act, and for carrying out related studies, surveys, investigations, inquiries, research and analyses. Such grants shall be made from funds appropriated by the General Assembly for this purpose and shall equal one-half the cost of preparing such plans. Such grants shall not be withheld from any municipality which is complying with the terms of this act. For the purposes of this section, costs shall be exclusive of those reimbursed or paid by grants from the Federal government.

(b) *Local agencies complying with the provisions of this act in a manner deemed satisfactory by the secretary shall be reimbursed annually by the department from funds specifically appropriated for such purpose equal to one-half of the cost of the expenses incurred by the local agency in enforcement of the provisions of this act. Such grants shall not be withheld from any local agency which is complying with the terms of this act. For the purposes of this section, costs shall be exclusive of those reimbursed or paid by grants from the Federal Government.*

Section 4. Section 7 of the act, amended July 16, 1968 (P.L.356, No.177) and March 4, 1970 (P.L.113, No.43), is amended to read:

Section 7. Permits **[and Inspection]**.—(a) No person shall install, *construct, or request bid proposals for construction, or alter* an individual *sewage system* or community sewage **[disposal]** system or construct, *or request bid proposals for construction, or install or occupy* any building *or structure* for which an individual *sewage system* or community sewage **[disposal]** system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with the provisions of this act and the standards adopted pursuant to this act. No permit **[shall be required by the department, county department of health, joint county department of health, joint municipal department of health, municipality, joint township department of health or township]** *may be issued by the local agency* in those cases where a permit from the **[Sanitary Water Board or the secretary has been obtained,]** *department is required pursuant to the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," as amended,* or where the department *pursuant to its rules and regulations,* determines that such permit is not necessary **[for the protection of the public health or for a rural residence]** *either for a rural residence or for the protection of the public health.*

(b) (1) Application for permit shall be in writing to the **[municipality, county department of health, joint county department of health, or to the department]** *local agency* in accordance with the provisions of section 8 of this act, and shall be made **[on a formal application blank, and each application shall include such data as shall be prescribed by said technical standards for construction]** *in such form and shall include such data as the department may prescribe.*

**[(c)]** (2) Permits shall be issued or denied within seven days after receiving an application for permit except that, in case the **[municipality, county department of health, joint county department of health, or the department]** *local agency* in accordance with the provisions of section 8 of this act, finds the data submitted by an applicant *is incomplete, or the local agency is unable to verify the information submitted, the local agency shall so notify the applicant within seven days after receiving said application and* the time for acting thereon shall be extended **[seven]** *fifteen* days beyond the date of **[submission]** *receipt* of adequate supplementary or amendatory data. Denial of permit shall be supported by a statement in writing of the reasons for such action.

**[(d)]** (3) No system or structure designed to provide individual or community sewage disposal **[to any realty improvement]** shall be covered from view until approval to cover the same has been given by the body which issued the original permit or its authorized representative. If **[forty-eight]** *seventy-two* hours have elapsed, excepting Sundays and holidays, since the body issuing the permit



receive notification of completion of construction, the applicant may cover said system or structure unless permission has been refused by the issuing body.

**[(e) In case any permit is denied or revoked, a hearing shall be held thereon before the municipality, county department of health, joint county department of health, or the department in accordance with the provisions of section 8 of this act, within fifteen days after request therefor is made by the applicant. Within seven days following the date of such hearing, the applicant shall be notified in writing of the determination of said hearing.]**

***(4) The local agency shall not issue permits for individual sewage systems or community sewage systems unless the system proposed is consistent with the official plan of the municipality in which said system is to be located and the municipality is adequately implementing the official plan. In the event that the municipality has no plan or has not revised or implemented its plan as required by the rules and regulations of the department or by order of the department, no permits may be issued under this section 7 of this act in those areas of the municipality for which an official plan, revision thereto or implementation thereof is required, until the municipality has submitted the said official plan or revision to, and received the approval of, the department, or has commenced implementation of its plan or revisions in accordance with a schedule approved by the department.***

***(5) The limitations on permit issuance contained in paragraph ~~(4)~~ of this subsection shall not apply:***

***(i) to those sections of the municipality where the department finds that the zoning or applicable restrictive covenants running with the land and enforceable by other grantees in a subdivision provide for single family residential lots of one acre or more or the proportionate equivalent acreage for multiple family or commercial uses and provided that a replacement system could be installed on the lot in the event that the original system failed;***

***(ii) to existing subdivisions or sections thereof (where subdivision plans therefor have been filed of record pursuant to applicable law and ordinance prior to the effective date of this subsection) where the department finds that either lots or homes in the subdivision or sections thereof have been sold in good faith to a purchaser for value prior to May 15, 1972 and not for the purpose of avoiding the application of paragraph (4) of this subsection. This subsection shall not relieve the municipality of its planning responsibilities as specified in this act;***

***(iii) where the department finds it necessary to issue permits for the abatement of pollution and/or the correction of health hazards.***

**[(f)] (6) If the [municipality, county department of health, joint county department of health, or the department in accordance with the provisions of section 8 of this act,] local agency determines that: (i) any**

change has occurred in the physical conditions of any lands [of a **realty improvement**] which will materially affect the operation of the community **sewage system** or individual sewage [disposal] system covered by any permit issued *by the local agency* under section 7 of this act, *or (ii) one or more tests material to the issuance of the permit has not been properly conducted, or (iii) information material to the issuance of the permit has been falsified, or (iv) the original decision of the local agency otherwise failed to conform to the provisions of this act or the rules and regulations of the department, or (v) the permittee has violated the rules and regulations of the department under which the permit was issued*, the permit shall be revoked. [and a new permit shall be obtained before construction shall proceed] *Such action shall be taken after notice and opportunity for hearing has been given to the permittee.*

*(7) If construction or installation of an individual sewage system or community sewage system and of any building or structure for which such system is to be installed has not commenced within two years after the issuance of a permit for such system, the said permit shall expire, and a new permit shall be obtained prior to the commencement of said construction or installation.*

[(g) The municipality, county department of health, joint county department of health, or the department in accordance with the provisions of section 8 of this act, shall have the power to make, or cause to be made, such inspections and tests as may be necessary to carry out the provisions of section 7 of this act and its authorized representatives shall have the right to enter upon lands for said purposes. In making said inspections in second class townships the supervisors may be appointed as inspectors and their compensation as inspectors shall be fixed by the township auditors.]

Section 5. Sections 8, 9, 10 and 11 of the act are amended to read:

Section 8. [Administrative Provisions.—(a) All municipalities shall administer the provisions of section 7 of this act and the standards adopted by the department pursuant thereto except that the provisions of section 7 of this act shall not apply to any municipality which is subject to jurisdiction of a county or joint county department of health.

County or joint county departments of health shall administer the provisions of section 7 of this act in the area subject to their jurisdiction. Each municipality or county or joint county department of health administering the provisions of section 7 of this act shall submit to the department such reports as the department shall require.

Whenever a municipality, county department of health or joint county department of health shall fail to administer the provisions of section 7 of this act in conformity with the standards of the department and thereby permit and allow conditions inimical to the public health to occur, the department shall administer the provisions of section 7 of this act in such municipality, county department of health or joint county

department of health, provided that no municipality, county department of health or joint county department of health shall voluntarily surrender administration of the provisions of this act.

In accordance with the provisions of this section, the department shall adopt the necessary procedures to effect the transfer of administration from municipalities, county or joint county departments of health to the department.

(b) Copies of any ordinances, which are adopted by any municipality or county or joint county department of health establishing requirements equivalent to those required by section 7 of this act and minimum standards for construction equivalent to those promulgated or to be promulgated by the Secretary of Health of the Commonwealth under section 7 of this act, shall be filed with the department within thirty days after their adoption, or in the case of existing ordinances within thirty days of the effective date of this act.

(c) Municipalities, county or joint county departments of health shall not adopt any standards or promulgate any regulations or procedures not in conformity with the standards, regulations or procedures of the department, and any regulations, ordinances and standards presently in existence shall be superseded by regulations and standards adopted by the department.] *Powers and Duties of Local Agencies.—(a) County or joint county departments of health shall administer section 7 of this act in the area subject to their jurisdiction. In all other areas, section 7 of this act shall be administered by each municipality unless said municipality has transferred or delegated the administration of section 7 of this act to another local agency, or is cooperating in said administration, in conformance with the act of July 12, 1972 (P.L.762, No.180), and said other local agency has accepted administration of section 7 of this act. Municipalities are hereby encouraged jointly to administer section 7 of this act on a county or joint county level. No local agency shall voluntarily surrender administration of the provisions of this act except to another local agency pursuant to this section.*

(b) *Each local agency in addition to the powers and duties conferred upon it by existing law shall have the power and the duty:*

(1) *To employ sewage enforcement officers to administer the provisions of section 7 of this act in accordance with the rules and regulations of the department. No person shall be employed as a sewage enforcement officer unless said person has been certified "qualified" by the department pursuant to standards set by the Environmental Quality Board. No person shall be employed as a sewage enforcement officer to administer the provisions of section 7 of this act with respect to a community sewage system for which he was or is the contractor. In such a case, the local agency shall employ a certified "qualified" enforcement officer from an adjoining local agency to administer the provisions of*

*section 7 of this act with respect to the particular community sewage system.*

*(2) To employ other technical and administrative personnel necessary to support the activities of the sewage enforcement officer and the local agency.*

*(3) To set rates of compensation, maintain offices, purchase necessary equipment and supplies.*

*(4) To set and collect application fees. The fee schedule may establish different charges for various types of individual sewage systems and community sewage systems consistent with the administrative costs of reviewing the application and supervising the installation of said system.*

*(5) To make or cause to be made, such inspections and tests as may be necessary to carry out the provisions of section 7 of this act, and its authorized representatives shall have the right to enter upon lands for said purpose.*

*(6) To cease issuing permits in designated areas after notice and opportunity for departmental hearing except for the abatement of existing health hazards or public nuisance, notwithstanding the provisions of section 7, upon receipt of a department order pursuant to section 10 (7) of this act.*

*(7) To proceed under section 12 of this act to restrain violations of this act and the rules and regulations adopted hereunder.*

*(8) To submit such reports and data to the department as the department may by its rules and regulations or by order require.*

*(9) To adopt and maintain standards and procedures for applications and permits identical to those of the department. Any other rules or regulations which the local agency deems necessary in order to administer and enforce section 7 may only be adopted if they are consistent with this act and the rules and regulations adopted hereunder.*

Section 9. [Reimbursement to Municipalities.—Municipalities complying with the provisions of this act in a manner deemed satisfactory by the secretary shall be reimbursed annually by the department from funds specifically appropriated for such purposes equal to one-half of the cost of the expenses incurred by the municipalities in the enforcement of the provisions of this act.] *Powers and Duties of the Environmental Quality Board.—The Environmental Quality Board shall have the power and its duty shall be to adopt such rules and regulations of the department, applicable throughout the Commonwealth, as shall be necessary for the implementation of the provisions of this act. Such rules and regulations shall establish standards for the construction, installation, alteration, maintenance and operation of individual sewage systems and community sewage systems and of sewage treatment plants in such systems, take cognizance of latest technological developments in the field of individual sewage*

*systems, including adoption of standards providing for use of alternate individual sewage systems, standards for enforcement programs of local agencies and for the certification of personnel employed by local agencies to administer the provisions of this act, standards for the preparation, review and acceptance of official plans, and requirements for the disbursement of State and Federal funds to municipalities and local agencies for planning, personnel and construction of sewage disposal systems. The board shall not have the power to establish or enforce the maximum size or capacity of sewers included in or served by sewage systems or treatment plants. Such rules and regulations shall be adopted pursuant to the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law," upon such notice and after such public hearings as the board deems appropriate. The rules and regulations adopted by the board under this section shall supersede any ordinance, rules or regulations of local agencies which are not in conformity with the rules and regulations of the board.*

Section 10. [Saving Clause.—Nothing in this act shall be deemed to affect, modify, amend or repeal any provisions of the act of June 22, 1937 (P.L.1987, No.394), as amended, or to affect the powers and duties of the Sanitary Water Board.] *Powers and Duties of the Department of Environmental Resources.—The department shall have the power and its duty shall be:*

*(1) To order municipalities to submit official plans and revisions thereto within such time and under such conditions as the rules and regulations promulgated under this act may provide.*

*(2) To approve or disapprove official plans and revisions thereto.*

*(3) To order the implementation of official plans and revisions thereto.*

*(4) To administer grants and reimbursements to local agencies as provided by section 6 of this act.*

*(5) To review the performance of local agencies in the administration of section 7 of this act.*

*(6) To cooperate with local agencies, the advisory committee and industry in studying and evaluating new methods of sewage disposal.*

*(7) To order a local agency to undertake actions deemed by the department necessary to administer effectively section 7 of this act in conformance with the rules and regulations of the department.*

*(8) To enter upon lands and make inspections and to require the submission of papers, books and records by local agencies for the purposes set forth in this act.*

*(9) To train sewage enforcement officers.*

*(10) To revoke or suspend the certification of sewage enforcement officers for cause, or to reinstate same, in accordance with the rules and regulations of the department: Provided, however, That such actions of*

*the department shall become effective only after notice and an opportunity for hearing before the certification board has been given.*

Section 11. [Restraining Violations.—Any municipality or county or joint county department of health administering the provisions of section 7 of this act shall have the power to institute in the court of common pleas of the county in which it is situated, a proceeding to restrain violations of section 7 of this act.

When the department is responsible for enforcement of the provisions of this act in accordance with the provisions of this act, the Attorney General at the request of the secretary shall have the power to institute in the Court of Common Pleas of Dauphin County an action against any person violating the provisions of section 7 of this act, to restrain said violation. For this purpose the said Court of Common Pleas of Dauphin County is vested with jurisdiction to hear, determine and adjudicate such matter and grant such relief as is necessary and appropriate.]  
*Certification Board.—(a) There is hereby created within the department a State Board for Certification of Sewage Enforcement Officers. The board shall consist of five members to be appointed by the secretary. One member shall be a representative of local government; one member shall be a sewage enforcement officer certified under the provisions of this act; one member shall be a representative of the engineering profession; and two additional members shall be chosen from a list of nominees submitted to the secretary by the advisory committee. The advisory committee shall designate a minimum of three nominees for the latter two positions. The original appointed members of the board in the order listed above shall hold office for one, two, three, three and four years, respectively. Thereafter, each appointment shall be for a period of four years' duration. The secretary may reappoint board members for successive terms. Members of the board shall remain in office until a successor is appointed and qualified. If vacancies occur prior to completion of a term, the secretary shall appoint another member in accordance with this section to fill the unexpired term.*

*The secretary, or his representative, shall call the first meeting of the board at which time a chairman of the board shall be elected. Thereafter, the chairman shall be elected annually. Three members of the board shall constitute a quorum. Meetings may be called by the chairman as needed to conduct the business of the board.*

*The members of the board shall receive no compensation for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.*

*(b) The board shall have the power and its duty shall be, in accordance with the rules and regulations of the department, to:*

*(1) Review and pass upon applications for certification of sewage enforcement officers.*

*(2) Administer such examinations as prepared by the department, as may be deemed necessary to determine the fitness of candidates for certification. Such examinations shall be held at frequent intervals and at least annually to afford all applicants an equal opportunity for taking such examinations. The board shall determine and shall announce, in sufficient time, the location and time for such examinations. During the first year of this act, no fees will be charged for said examinations. During the second and subsequent years, the board is hereby authorized to collect a fee of ten dollars (\$10) from each applicant.*

*(3) Hold hearings and issue adjudications under the provisions of the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law," on any revocation, suspension or reinstatement of certification by the department. The provisions of section 1921-A of The Administrative Code notwithstanding, such actions of the department shall not be appealable to the Environmental Hearing Board.*

*(4) Consider for renewal biennially certificates issued under this section, and collect a fee of five dollars (\$5) from each certificate holder for such renewal.*

*(5) Compile and keep current a register showing the names and addresses of certified sewage enforcement officers. Copies of this register shall be furnished on request for municipalities and upon payment of such reasonable fee for all others, as the department shall establish.*

Section 6. Section 12 of the act is amended to read:

Section 12. [Penalty.—Any person who shall violate any of the provisions of this act or the rules, regulations or standards promulgated thereunder or who resists or interferes with any officer, agent or employe of a municipality or county or joint county department of health or the department, in accordance with the provisions of this act, in the performance of his duties, shall upon conviction thereof in a summary proceeding before any justice of the peace, alderman or magistrate in the county in which the offense was committed, be sentenced to pay a fine of not less than one hundred dollars (\$100) and costs, and not more than three hundred dollars (\$300) and costs, to be paid to said county, or in default thereof, shall be confined in the county jail for a period of not more than thirty days.] *Civil Remedies.—(a) Any local agency or any municipality which is a member of a local agency shall have the power to institute in the court of common pleas of the county in which it is situated suits in equity to restrain or prevent violations of section 7 of this act occurring within the jurisdiction or corporate limits of said local agency or municipality. Such suits may be instituted after notice has first been served upon the Attorney General of*

*the intention to so proceed. For this purpose, jurisdiction is hereby conferred upon the said courts to hear, determine and adjudicate such matter and grant such relief as is necessary and appropriate.*

*(b) The Attorney General at the request of the department shall have power to institute in the Commonwealth Court or in the court of common pleas of the appropriate county proceedings at law or in equity to restrain or prevent violations of the provisions of this act or of the rules and regulations promulgated hereunder or of any order of the department issued hereunder or for the enforcement of any order of the department issued hereunder. For this purpose, jurisdiction is hereby conferred upon the said courts to hear, determine and adjudicate such matter and grant such relief as is necessary and appropriate.*

*(c) In suits brought in the name of the Commonwealth pursuant to subsection (b) of this section, the Commonwealth shall not be required to furnish bond or other security in connection with such proceedings.*

*(d) In cases under this section where the department has ordered the local agency to revoke any permits deemed improperly issued under the provisions of section 7 of this act, or in other cases under this section where the circumstances require it or the public health may be endangered, a mandatory preliminary injunction may be issued upon the terms prescribed by the court, notice of the application therefor having been given to the defendant in accordance with the rules of equity practice, and in any such case the Commonwealth shall not be required to give bond.*

Section 7. Section 12.1 of the act is repealed.

Section 8. Sections 13 and 14 of the act are amended to read:

Section 13. **[Severability Clause.—The provisions of this act are severable and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of the act.] Penalties.—Any person who shall violate any provision of section 7 of this act or the rules, regulations or standards promulgated thereunder or who resists or interferes with any officer, agent or employe of a local agency or the department, in accordance with the provisions of this act, in the performance of his duties, shall be guilty of a summary offense. Upon conviction thereof in a summary proceeding before any district justice, justice of the peace, alderman or magistrate in the county in which the offense was committed, such person shall be sentenced to pay a fine of not less than one hundred dollars (\$100) and costs, and not more than three hundred dollars (\$300) and costs, to be paid to said county, or in default thereof, shall be confined in the county jail for a period of not more than thirty days.**

Section 14. **[Repealer.—All acts or parts thereof inconsistent with the provisions of this act are repealed.] Nuisances.—A violation of**



*section 7 of this act shall constitute a nuisance and shall be abatable in the manner provided by law.*

Section 9. The act is amended by adding sections to read:

*Section 15. Existing Rights and Remedies Preserved.—Nothing in this act shall be construed as estopping the Commonwealth, or any district attorney or solicitor of a local agency from proceeding in courts of law or equity to abate nuisances forbidden under this act, or abate nuisances<sup>1</sup> under existing law. It is hereby declared to be the purpose of this act to provide additional and cumulative remedies to abate public health hazards and pollution of the waters of this Commonwealth, and nothing in this act contained shall in any way abridge or alter rights of action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil, nor shall any provision of this act, or the granting of any permit under this act, or any act done by virtue of this act, be construed as estopping the Commonwealth, persons or municipalities, in the exercise of their rights under the common law or decisional law or in equity, from proceeding in courts of law or equity to suppress nuisances or public health hazards or to abate any pollution now or hereafter existing, or enforce common law or statutory rights.*

*Section 16. Hearings and Appeals.—(a) Any person aggrieved by an action of a sewage enforcement officer in granting or denying a permit under this act shall have the right within thirty days after receipt of notice of the action to request a hearing before the local agency. Revocation of permits shall occur only after notice and opportunity for hearing has been given to the permittee. Hearings under this subsection and any subsequent appeal shall be conducted pursuant to the act of December 2, 1968 (P.L.1133, No.353), known as the "Local Agency Law." The Attorney General shall be notified in writing by the appellant of any appeal challenging the constitutionality of any provision of this act or the validity of any rule or regulation promulgated hereunder.*

*(b) Any order, permit, or decision of the department under this act, except as otherwise provided by section 10(10) and section 11 of this act, shall be taken, subject to the right of notice and appeal to the Environmental Hearing Board, pursuant to section 1921-A of The Administrative Code of 1929, as amended, and the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law," as amended.*

*Section 17. Saving Clause.—Nothing in this act shall be deemed to affect, modify, amend or repeal any provisions of the act of June 22, 1937 (P.L.1987, No.394), as amended.*

*Section 18. Severability.—The provisions of this act are severable and if any provision or part thereof shall be held invalid or*

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<sup>1</sup>"nuisance" in original.

*unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this act.*

*Section 19. Repealer.—All acts or parts thereof inconsistent with the provisions of this act are repealed.*

*Section 20. Appropriation for Training.—There is hereby appropriated to the department for the 1974-75 fiscal year two hundred fifteen thousand dollars (\$215,000) for the training and certification of sewage enforcement officers.*

Section 10. Section 15 of the act, amended October 5, 1967 (P.L.350, No.151), is amended to read:

Section [15] 21. Effective Date.—This act shall take effect January 1, 1968: Provided, That any [municipality] local agency which shall enforce this act in a manner deemed satisfactory to the secretary shall receive reimbursement as provided in section [9] 6 for expenses incurred after July 1, 1967: And provided further, That after July 1, 1967 the department is authorized to administer grants to any county, municipality or authority pursuant to section 6.

Section 11. The provisions of this act shall take effect immediately and shall not be enforced until the rules and regulations which shall implement this amendatory language, including adoption of standards for alternate individual sewage systems, have been <sup>1</sup> promulgated and approved in accordance with the provisions of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

APPROVED—The 22nd day of July, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 208.



Secretary of the Commonwealth.

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<sup>1</sup>"only" in original.