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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 200

AN ACT TO AMEND THE DELAWARE CODE RELATING TO CLEAN WATER FOR DELAWARE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 80, Title 29 of the Delaware Code, by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Subchapter IV. Clean Water for Delaware Act.

4 § 8080. Short title.

5 This Act shall be known and may be cited as the “Clean Water for Delaware Act.”

6 § 8081. Legislative findings.

7 (a) The General Assembly finds all of the following:

8 (1) The waters of this State are among Delaware’s most basic and valuable resources and should be conserved
9 and protected in a manner to realize their full benefits.

10 (2) Delaware’s continued economic vitality is dependent upon: maintaining and improving the State’s water
11 and wastewater systems; and protecting and enhancing the State’s water resources as an attraction for tourism,
12 employers and workers.

13 (3) Many Delaware homes and businesses are at risk from flooding and drainage hazards, which have
14 environmental, public safety, health, and economic impacts, and some Delawareans lack access to potable drinking
15 water or basic wastewater disposal in their homes.

16 (4) Delaware’s list of impaired waters includes 377 bodies of water that suffer from excess nutrients, low
17 dissolved oxygen, toxins and bacteria that negatively impact human and aquatic life.

18 (5) Existing federal and State funding resources alone are inadequate to meeting the State’s current and future
19 demand for clean water projects.

20 (6) It is fitting and proper for the State to encourage local governments, private entities and farmers to
21 undertake clean water projects that effectively and efficiently reduce pollution in the waters of the State by establishing
22 mechanisms to assist planning and financing of such projects at the lowest reasonable costs.

23 (b) Based on its findings in subsection (a) of this section, the General Assembly determines that it is in the public
24 interest to designate a Delaware Clean Water Trust account to ensure the greatest environmental return on investment
25 through the management and coordination of financial resources available to the State for drinking water, wastewater,
26 drainage and other eligible clean water projects to be funded from the following sources:

27 (1) Appropriations, including supplemental funds in the bond bill, intended to satisfy all of the following
28 purposes:

29 a. § 7903(14) of this title related to the Delaware Safe Drinking Water Revolving Fund.

30 b. § 8003(12) of this title related to the Delaware Water Pollution Control Revolving Fund.

31 c. § 3923 of Title 7 related to resource conservation and development projects undertaken by the County
32 Conservation Districts in Kent, New Castle and Sussex Counties.

33 (2) Moneys received as repayments of principal and interest on loans, interest received on invested funds, and
34 other funding made available for the programs and purposes in paragraph (1) of this subsection.

35 § 8082. Clean Water Trust Oversight

36 (a) To ensure coordination of the management of resources available for Clean Water Trust projects and other
37 programs that impact the quality of the State's water resources, the Clean Water Trust Oversight Committee ("Committee")
38 is established and shall serve in an advisory capacity to the Governor and the General Assembly.

39 (b) The Committee shall be comprised of 7 members to include all of the following:

40 (1) The Secretary of the Department of Natural Resources who shall serve as its Chair.

41 (2) The Secretary of the Department of Health and Social Services.

42 (3) The Secretary of the Department of Finance.

43 (4) The Secretary of the Department of Agriculture.

44 (5) The Secretary of the Department of Transportation.

45 (6) The Chair and Co-Chair of the Joint Capital Improvement Committee of the Delaware General Assembly.

46 (c) Members who serve by virtue of their position may designate a designee to serve on the Committee.

47 (d) The Committee shall be responsible for oversight of the Clean Water Trust account and shall produce and
48 publish an Annual Report and Strategic Plan for Clean Water that shall include all of the following:

49 (1) An annual report accounting for the sources and uses of the Clean Water Trust account and other water
50 quality programs funded with State and/or federal resources including but not limited to wastewater, stormwater and
51 drinking water infrastructure and programs for drainage, beach preservation, waterway management, cover crop, the
52 conservation reserve enhancement program, tax ditches and conservation cost-sharing that shall include a list of all
53 funded projects.

54 (2) An annually updated strategic plan that shall include all of the following:

55 a. Multi-year water quality goals and progress toward meeting those goals.

56 b. Challenges facing the achievement of such water quality goals.

57 c. A prioritized list of proposed projects to attain such goals.

58 d. Drinking water testing priorities of the State.

59 e. Recommendations on minimum funding levels for wastewater and drinking water projects benefitting
60 low-income and traditionally underserved communities through low interest loans and affordability grants.

61 f. Recommendations on strategies that support low-income consumer affordability.

62 g. An annual work plan report on the implementation of the Strategic Plan for the previous fiscal year
63 addressing success indicators, deliverables and milestones.

64 (e) The Committee shall hold at least 1 publicly noticed meeting to allow public comment on the Annual Report
65 and Strategic Plan.

66 (f) The Water Infrastructure Advisory Council and the Conservation Districts shall provide outside, technical
67 assistance and advice to the Committee.

68 Section 2. Amend § 8011, Title 29 of the Delaware Code by making deletions as shown by strike through and
69 insertions as shown by underline as follows:

70 (c) The Water Infrastructure Advisory Council (the “Council”) shall serve in an advisory capacity to the
71 Secretaries of the Departments of Natural Resources and Environmental Control (“DNREC”), Agriculture (“DDA”), Health
72 and Social Services (“DHSS”), Transportation (“DelDOT”, and Finance (“DOF”) and collectively the (“Secretaries”). The
73 Council shall be composed of ~~13~~ 14 members appointed by the Governor with the advice and consent of the Senate. The
74 Governor shall appoint a chairperson. Members of the Council shall serve for up to 3 years excluding the Chairperson who
75 shall serve at the pleasure of the Governor. Members shall be appointed for staggered terms so that no more than 4
76 members’ terms expire in any calendar year. There shall be at least 1 member who is a resident of New Castle County, 1
77 member who is a resident of Kent County, 1 member who is a resident of Sussex County, and 1 member who is a resident
78 of the City of Wilmington. Members of the Council shall represent interest and possess expertise in the areas of wastewater,

79 stormwater and drinking water infrastructure. Members may include, but not be limited to representatives from local
80 government, non-profit environmental organizations, public health, agriculture and financial management. No more than 7
81 members shall be affiliated with any 1 major political party. The Governor shall appoint a member representing the water
82 utilities who shall serve as a non-voting member of the Council, and at the pleasure of the Governor.

83 Section 3. Amend § 8011(e), Title 29 of the Delaware Code by making deletions as shown by strike through and
84 insertions as shown by underline as follows:

85 (e) The Council's duties and responsibilities shall include the following:

86 (1) To evaluate, establish, recommend, and adopt a long-term plan for the public funding of drinking water
87 supply and wastewater facility infrastructure projects that shall cover a period of not less than 6 years. The plan shall
88 be updated and prioritized on an annual basis and incorporated in DNREC's and DHSS's annual capital budget
89 requests to the Governor. A copy of the adopted plan shall be submitted to members of the General Assembly on or
90 before November 15 of each year ~~beginning in calendar year 1995~~; Additionally, the Council shall submit to the Clean
91 Water Trust Fund Oversight Committee annual advisory recommendations related to wastewater, stormwater and
92 drinking water infrastructure addressing those elements required for inclusion in the Strategic Plan for Clean Water as
93 required in §8082(a) of this title on or before September 15 of each year.

SYNOPSIS

Many of the State's waters do not meet water quality standards to support their designated uses, such as for drinking, swimming or supporting aquatic life. The Clean Water for Delaware Act establishes a framework for assessing needs and planning and implementing projects that support Delaware's efforts to improve the quality of the State's water supply and waterways. A Delaware Clean Water Trust account is created as a funding source for executing projects highlighted by this framework.

The Trust account will have oversight from the Clean Water Trust Oversight Committee (the "Committee"). The Committee will draw upon recommendations from the Water Infrastructure Advisory Council, (WIAC), the county Conservation Districts', experts in the effected Cabinet agencies and other public input with the goal of assisting municipal and county governments and others in implementing affordable water quality projects. The Committee is required to develop and publish an Annual Report and multi-year Strategic Plan for Clean Water with annual updates.