

Pennsylvania Chamber of Business and Industry

Suggested Elements of Water Resources Management Legislation

1. **Scope.** The Chamber recommends that water resources management legislation be focused at this point on the development of scientifically-sound, fact-based water resource plans that cover each major river basin, and the state as a whole. Pending the development of such plans, which identify and analyze water resource problems and potential solutions, the Chamber believes that adoption of legislation encompassing particular water management arrangements (such as permitting) would be premature. However, the Chamber also believes that planning should not be undertaken just for the sake of planning, but should represent an investment by the Commonwealth in quantifying the distribution and availability of its water resources, assessing current and future projected needs for water, identifying potential challenges or problems, evaluating alternative solutions for increasing supply, targeting infrastructure investments, guiding development to areas of available supply, and managing demand within a sustainable economy.

2. **Process for Adoption of Basin Plans and the State Water Plan.** The Chamber believes that the development of a state water plan can be neither top-down, nor bottom-up, but a truly two-way process of communication and collaboration. The planning process needs to recognize that there are significant regional differences across the Commonwealth in terms of water availability, challenges and potential solutions. At the same time, water basins are interconnected and interrelated parts of our Commonwealth and the nation. There are substantial statewide interests with respect to promotion of a viable economy, sustainable agriculture, adequate energy supplies, and a sound environment that must be recognized. Water resources are shared resources in which all Pennsylvanians, irrespective of whether they may live or work, have an interest and stake. To carryout this two-way process, the Chamber suggests use of a State Water Resources Board coupled with Regional Advisory Boards, as described below. The objective of this two-way process is to provide for both consideration of regional priorities and a clear-headed balancing of the many legitimate interests that all have a stake in water resource quality and quantity. That balancing should be lead by a State Water Resources Board that is itself balanced and capable of bringing to the table real expertise and professionalism in guiding water management planning and decisions.

3. **State Water Resources Board.**
 - a. **Concept:** The State Water Resources Board would be a policy-making body, established as an administrative board within the Department of Environmental Protection, but with broad representation from other agencies and stakeholders.

 - b. **Composition:** To achieve the balancing discussed above, the Chamber suggests that the State Water Resources Board be comprised as follows:

- (1) 6 members from the regional advisory boards, each elected by their respective regional advisory board. (Each of the six members would serve for two year terms.)
- (2) 4 expert professional individuals appointed by the Governor, with backgrounds in water supply development and management, water conservation, hydrology and aquatic ecology, law and economics.
- (3) 5 state agency members, representing the Department of Environmental Protection, Department of Conservation and Natural Resources (Topographic and Geologic Survey), Department of Agriculture, Public Utility Commission, and Pennsylvania Emergency Management Agency.
- (4) 4 representatives from the General Assembly, one each appointed by the Majority and Minority Leaders of the House and Senate.
- (5) The State Water Resources Board would elect its chairperson from among its members.

c. **Role:**

- (1) At the outset of the planning process, the State Water Resources Board would be responsible for establishing the basic policies and guidelines that guide the development of regional water resource plans. Examples would include policies regarding: (i) evaluation of available water supplies and development of watershed water budgets (i.e., what recharge rates and drought recurrence interval should be considered); (ii) analysis of consumptive and non-consumptive uses; (iii) assessment of instream needs; and (iv) consideration of structural and non-structural alternatives.
- (2) The State Water Resources Board would be responsible for guiding the efforts of the Department of Environmental Protection and other state agencies in providing staff-level assistance in the development of the regional and state water plans, and in approving the engagement of consultants to assist in plan development. The State Water Resources Board would be charged with allocating available staff and financial resources to support the efforts of the Regional Advisory Boards.
- (3) Ultimately, after input from and recommendation of regional water plans from the Regional Advisory Boards, the State Water Resources Board would be responsible for approval of such plans as part of the State Water Plan. While according due deference to the desires expressed by regional interests via the Regional Advisory Boards, the State Water Resources Board would be ultimately responsible for reconciling differences or conflicts between regional plans, and for assuring that the final plans adequately consider and reflect interests of statewide importance.

- (4) Adoption of *all policies, guidelines and plans* by the State Water Resources Board would be subject to review in accordance with the Regulatory Review Act.

4. ***Regional Advisory Board Role.***

- a. **Concept:** A Regional Advisory Board would be established in each major basin or region as defined in the statute. A set of six basins (Delaware, Upper Susquehanna, Lower Susquehanna, Ohio-Allegheny-Monongahela, Lake Erie/Genesee, and Potomac) may be appropriate, although other combinations might be considered. The Regional Advisory Boards would be composed as set forth below, with the objective of obtaining broad representation from stakeholders in each basin in the development of regional water resource plans.
- b. **Composition and Appointment:**
 - (1) Each Regional Advisory Board would be composed of 15 members, including 6 stakeholders (representing public water supply, significant industrial and commercial enterprises, agriculture, power production, environmental and conservation interests), 4 individuals with training and experience in professions relating to water management (such as hydrology, engineering, geology, planning, and law), and 5 representatives from county and local government within the basin. These 15 representatives would be appointed to 5 year staggered terms (3 per year).
 - (2) Where an interstate compact river basin commission exists, a representative of the basin commission would be invited to serve *ex officio* on the Regional Advisory Board.
 - (3) Stakeholder and professional members would be appointed by the Governor (or the Secretary of Environmental Protection, if designated by the Governor), based on solicitation of recommendations from statewide and regional organizations representing such stakeholder and professional interests.
 - (4) County and local government representatives would be appointed by the Governor (or the Secretary of Environmental Protection, if designated by the Governor) based on nominations received from the County Commissioners Association of Pennsylvania, Pennsylvania League of Cities and Municipalities, Pennsylvania State Association of Boroughs, Pennsylvania State Association of Township Supervisors, Pennsylvania State Association of Township Commissioners, and the Pennsylvania Municipal Authorities Association. Such appointments shall be designed to provide representation of a cross-section of each region, considering the distribution of population within each region.
- c. **Role:** Regional Advisory Boards would be responsible for providing input throughout the development of basin water resources plans, including assistance

in identifying potential problem areas, identifying potential solutions, and providing suggested priorities or selections among possible solutions. Regional boards would be advisory in nature, and would not have any direct project development, management or enforcement powers.

5. ***Plan Content.*** The State Water Plan and the regional water resource plans that constitute part of the State Water Plan would include the following elements:
 - a. An identification of the boundaries of major water sources (watersheds and aquifers).
 - b. An evaluation of water resource availability for each major subbasin and watershed, including a “water budget” that identifies the safe yield of each major water source, and where applicable, minimum flows and levels necessary during normal and drought conditions to preserve instream needs and prime recharge areas for groundwater.
 - c. An evaluation of existing water uses and estimates of future water uses (both withdrawal uses and instream uses), including the current and future capabilities of public water supply systems to provide an adequate quantity and quality of water to their service areas.
 - d. An identification of potential water availability problems or conflicts between water uses.
 - e. An identification of practical alternatives for improving, increasing and developing an adequate supply of water to satisfy existing and future reasonable and beneficial uses, including improved storage, groundwater recharge and surface water/groundwater conjunctive management programs..
 - f. An identification and evaluation of potential alternatives to resolve water availability problems or conflicts between water uses, including potential actions to develop additional or alternative supplies, conservation measures, and management techniques.
 - g. Emergency plans, including criteria for identifying the onset of water resource shortage conditions, and alternatives for establishing relative priorities and actions during various stages of water shortage emergencies.
 - h. Proposed methods of implementing various recommended actions, projects, or management activities.

6. ***Use of the Plan.*** The State Water Plan is intended as a guiding document, but is not necessarily intended to dictate decisions. It should be considered and weighed in a broad range of state, local and private decisions. Among other uses of the plan, it would be used to:

- a. Identify and prioritize water resource and water supply development projects to be carried out by private organizations or government agencies.
- b. Identify opportunities for improving operation of Pennsylvania's existing water resources infrastructure.
- c. Guide the development of policies by state agencies that will reduce risk of flooding and water shortages from drought.
- d. Guide policies on activities that directly and significantly affect the quantity and quality of water available for multiple uses.
- e. Educate public officials, the press and the public at large regarding the sources and uses of water in the Commonwealth.

7. ***Registration and Water Use Reporting.***

- a. In order to provide a sound basis upon which to understand and project water use as part of the planning process, the State Water Resources Board, working through the Department of Environmental Protection, should be authorized to require the registration and reporting of water usage by significant water users.
- b. Users of water in excess of a reasonable threshold (e.g., 50,000 or 100,000 gallons per day) may be required to register and report the location and amount of withdrawals from ground and surface waters, the amount and type of consumptive water uses (as defined by the Delaware River Basin Commission and the Susquehanna River Basin Commission), and (to the extent it is known), the location and amount where such withdrawn waters are returned to surface or groundwaters.
- c. The registration and water use reporting system should not involve imposition on water users of extensive new metering, monitoring or testing requirements.
- d. Where water users are reporting such data to the Department through other programs, those programs should be used as the avenue for collection of required water use information (i.e., the water use information gathering program should be piggybacked onto existing information gathering programs where possible to avoid duplication of efforts.
- e. Given the nature of the programs envisioned, the legislation should not contain overly cumbersome or punitive provisions. While there may be modest sanctions (such as modest civil penalties) for failure to register and report water usage, the plethora of enforcement vehicles seen in some environmental legislation is not warranted in this situation.

8. ***Relation to Other Laws; Protection of Existing Rights and Uses.*** Nothing set forth in this new act or updated State Water Plan shall authorize the Department to take any action under any other state law:

- a. To modify or impair any other existing permits issued under other state statutes or vested rights related to water withdrawals and uses, or
- b. To interfere with the use or operation of any existing reservoir or water storage facility.

9. ***Relation to Local Government.*** Management of water to maintain a sustainable economy in Pennsylvania requires a unified and cohesive approach that avoids a fragmentation and/or “balkanization” of authority, duplicative and overlapping authorities, and which recognizes the needs and priorities of the Commonwealth as a whole. For this reason, the Chamber opposes the delegation of any powers to regulate the withdrawal or use of water to municipal or county government.