Amend Bill, page 1, lines 1 through 5, by striking out all of said lines and inserting

Amending Title 27 (Environmental Resources) of the Pennsylvania Consolidated Statutes, in good Samaritan, further providing for findings, for definitions, for eligibility and project inventory, for landowner liability limitation and exceptions, for project liability limitation and exceptions, for exceptions and for water supply replacement; and making editorial changes.

Amend Bill, page 1, lines 8 through 18; pages 2 through 8, lines 1 through 30; page 9, lines 1 through 27, by striking out all of said lines on said pages and inserting

Section 1. Section 8102(5) of Title 27 of the Pennsylvania Consolidated Statutes is amended to read:

§ 8102. Findings.

The General Assembly finds and declares as follows:

(5) Numerous landowners, citizens, watershed associations, environmental organizations, private entities and governmental entities who do not have a legal responsibility to reclaim the abandoned lands or to abate the water pollution are interested in addressing these problems but are reluctant to engage in such reclamation and abatement activities because of potential liabilities associated with the reclamation and abatement activities.

Section 2. The definitions of "eligible land and water," "water pollution abatement facilities" and "water pollution abatement project" in section 8104 of Title 27 are amended and the section is amended by adding definitions to read:

§ 8104. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Beneficial use." Any use of water for a purpose that results in an economic or environmental benefit, including the supply of water for use by an industrial or commercial facility operating in accordance with the laws of this Commonwealth.

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"Eligible land and water." Land and water adversely affected by mining or oil or gas extraction [and left or abandoned in an unreclaimed or inadequately reclaimed condition or left discharging water pollution and] for which no person has a continuing reclamation or water pollution abatement obligation. The term [shall also include] includes land and water adversely affected by mining or oil or gas extraction [and left in an unreclaimed or inadequately reclaimed condition or left discharging water pollution] for which the Department of Environmental Protection has forfeited and collected the operators bonds and there is no outstanding litigation concerning the bond forfeiture, or for which a treatment trust fund naming the department as the beneficiary has been established.

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"Mine drainage" or "mine pool water." Water contained in a mine pool, or a surface discharge of water caused by mining activities that pollutes or may create a threat of pollution to waters of this Commonwealth.

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"Mine operator." The permittee of an active or closed mine that treats mine drainage or mine pool water under a permit issued by the department.

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"Reclamation project operator." A person who undertakes or performs a reclamation project approved by the department.

"Treated mine drainage." Water from an active or closed mine that is treated by the mine operator under a permit issued by the department. Treated mine drainage that meets the effluent limits for the National Pollutant Discharge Elimination System permit for the source mine is not a solid waste as defined in section 103 of the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, and the regulations promulgated thereunder.

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"Water pollution abatement facilities." The methods for treatment or abatement of water pollution located on eligible lands and water. These methods include, but are not limited to, a structure, system, practice, technique or method constructed, installed or followed to reduce, treat or abate such water pollution, and facilities to withdraw mine drainage or mine pool water for use in gas well development or another beneficial use.

"Water pollution abatement project." Any of the following:

(I) A plan for treatment or abatement of water pollution located on eligible lands and water. These plans include, but are not limited to, the practices to be followed and the
installation, operation and maintenance of facilities to reduce, treat or abate such water pollution.

(2) A plan for the withdrawal of mine drainage or mine pool water located on eligible lands and water, provided that the use is for gas well development or another beneficial use. These plans include the installation, operation and maintenance of facilities to withdraw such mine drainage or mine pool water.

"Water pollution abatement project operator." A person who undertakes or performs a water pollution abatement project approved by the department.

Section 3. Section 8105(a), (b) and (d) of Title 27 are amended to read:

§ 8105. Eligibility and project inventory.

(a) General rule.--A landowner or person who [voluntarily] provides equipment, funding, materials or services [at no charge or at cost] for a reclamation project or a water pollution abatement project in accordance with this chapter may be immune from civil liability and may raise the protections afforded by this chapter in any subsequent legal proceeding which is brought to enforce environmental laws or otherwise impose liability. A landowner or other person is only eligible for the protections and immunities provided by sections 8105 (relating to landowner liability limitation and exceptions) and 8107 (relating to project liability limitation and exceptions) if a detailed written plan of the proposed reclamation project or water pollution abatement project is submitted to and approved by the department. The project plan shall include the objective of the project and a description of the work that will be performed to accomplish the objective and must identify the project location, project boundaries, the project participants and the owners of the land.

(b) Notice.--Upon receipt of each project plan, the department shall require a water pollution abatement project operator or a reclamation project operator to either give written notice by certified mail to adjacent property owners and riparian land owners located downstream of the proposed project or [will] provide public notice of the proposed project in a newspaper of general circulation, published in the locality of the proposed project, once a week for four consecutive weeks [and]. The department shall give public notice in the Pennsylvania Bulletin. [The person proposing the project may also provide public notice. Any] All notice under this subsection shall indicate that any person having an interest which may be adversely affected by the proposed project has the right to file with the department written objection to the proposed project within 30 days after receipt of the written notice or the last publication of the above notice, which shall conclude the public comment period. The department shall provide to the person proposing the project a copy of each written objection received during the public comment period.
(d) Departmental review.--The department shall review each proposed reclamation project and approve the project if the department determines the proposed project:

(1) will result in the regrading of the land to stable contours that blend in and complement the drainage pattern of the surrounding terrain with no highwalls, spoil piles or depressions to accumulate water;
(2) will result in the appropriate revegetation of the site; and
(3) is not likely to result in water pollution as defined in section 1 of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

The department shall review each proposed water pollution abatement project and approve the project if the department determines the proposed project is likely to improve the water quality of mine drainage or mine pool water on eligible land and water or will likely have a beneficial impact on water resources in this Commonwealth and is not likely to make the water pollution worse.

Section 4. Sections 8106 heading, (a) and (c) and 8107 of Title 27 are amended and the sections are amended by adding subsections to read:
§ 8106. [Landowner liability] Liability limitation and exceptions.

(a) General rule.--Except as specifically provided in subsections (b) and (c), a landowner who provides access to the land[, without charge or other consideration,] which results in the implementation of a reclamation project or a water pollution abatement project:

(1) Shall be immune from liability for any injury or damage suffered by the person implementing the reclamation project or the water pollution abatement project while the person is within the project work area.
(2) Shall be immune from liability for any injury to or damage suffered by a third party which arises out of or occurs as a result of an act or omission of a person implementing a reclamation project or water pollution abatement project which occurs during the implementation of the reclamation project or the water pollution abatement project.
(3) Shall be immune from liability for any injury to or damage suffered by a third party, including adjacent landowners or downstream riparian landowners, which arises out of or occurs as a result of a reclamation project or a water pollution abatement project.
(4) Shall not be deemed to assume legal responsibility for or incur liability for any pollution resulting from a reclamation project or water pollution abatement project.
(5) Shall not be subject to a citizen suit filed
pursuant to section 601 of the act of June 22, 1937
(P.L.1987, No.394), known as The Clean Streams Law, for
pollution resulting from a reclamation project or water
pollution abatement project.

(6) Shall be immune from liability for the operation,
maintenance or repair of the water pollution abatement
facilities constructed or installed during the project unless
the landowner negligently damages or destroys the water
pollution abatement facilities or denies access to those
persons who operate, maintain or repair the water pollution
abatement facilities.

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(c) Exceptions to landowner immunity.--Nothing is this
chapter shall limit [in any way] or affect a landowner's
liability which results from a reclamation project or water
pollution abatement project and which would otherwise exist:

(1) For injury or damage resulting from the landowner's
acts or omissions which are reckless or constitute gross
negligence or willful misconduct.

(2) Where the landowner charges an access fee or
requires other consideration before allowing access to the
land for the purpose of implementing a reclamation project or
water pollution abatement project or to operate, maintain or
repair water pollution abatement facilities constructed or
installed during a water pollution abatement project.

(3) For the landowner's unlawful activities.

(4) For damage to adjacent landowners or downstream
riparian landowners which results from a reclamation project
or water pollution abatement project where written notice or
public notice of the proposed project was not provided.

(d) Mine drainage immunity.--A mine operator who provides
treated mine drainage from a permitted mining activity site
shall be immune from liability for any cost, injury or damage
arising out of the use of the treated mine drainage if:

(1) the treated mine drainage is for use outside the
boundaries of the permitted mining activity site;

(2) the treated mine drainage is for the development of
a gas well or another beneficial use; and

(3) the mine operator is not the same person using the
treated mine drainage for gas well development or another
beneficial use.

(e) Water pollution abatement immunity.--A water pollution
abatement project operator who provides mine drainage or mine
pool water from eligible land and water shall be immune from
liability for any cost, injury or damage arising out of the use
of the mine drainage or mine pool water if:

(1) the mine drainage or mine pool water is for use
outside the boundaries of the water pollution abatement
project;

(2) the mine drainage or mine pool water is for the
development of a gas well or another beneficial use; and
(3) the water pollution abatement project operator is not the same person using the mine drainage or mine pool water for gas well development or another beneficial use.

(f) Acquisition of water.--A person who acquires mine drainage or mine pool water from eligible land and water for use in gas well development or another beneficial use may not be held liable for the treatment or abatement of the mine drainage or mine pool water due to the acquisition or usage.

(g) Liability limitation.--Except as provided in subsections (d) and (e), nothing in this chapter shall limit the liability of a person for unlawful spills or releases of mine drainage or mine pool water caused by the person after its withdrawal of the water that occurs on ineligible land and water in this Commonwealth.

§ 8107. Project liability limitation and exceptions.

(a) General rule.--Except as specifically provided in subsection (b), a [person] reclamation project operator or water pollution abatement project operator who provides equipment, funding, materials or services at no cost [or at cost] to the Commonwealth for a reclamation project or a water pollution abatement project:

(1) Shall be immune from liability for any injury to or damage suffered by a person which arises out of or occurs as a result of the water pollution abatement facilities constructed or installed during the water pollution abatement project.

(2) Shall be immune from liability for any pollution emanating from the water pollution abatement facilities constructed or installed during the water pollution abatement project unless the person affects an area that is hydrologically connected to the water pollution abatement project work area and causes increased pollution by activities which are unrelated to the implementation of a water pollution abatement project.

(3) Shall not be deemed to assume responsibility for or incur liability for the operation, maintenance and repair of the water pollution abatement facilities constructed or installed during the water pollution abatement project[.] or for the treatment or abatement of mine drainage or mine pool water that is the object of the water pollution abatement project.

(4) Shall not be subject to a citizen suit under section 601 of the act of June 22, 1937 (P.L.1937, No.394), known as The Clean Streams Law, for pollution emanating from the water pollution abatement facilities constructed or installed during the water pollution abatement project.

(b) Exceptions.--

(1) Nothing in this chapter shall limit [in any way] the liability of a [person] reclamation project operator or a water pollution abatement project operator who provides equipment, funding, materials or services [at no cost or at
cost] for a reclamation project or a water pollution
abatement project [which liability results from the
reclamation project or the water pollution abatement project
and which would otherwise exist]:

(i) For injury or damage resulting from the
[person's] water pollution abatement project operator's
or the reclamation project operator's acts or omissions
which are reckless or constitute gross negligence or
willful misconduct.

(ii) For the [person's] water pollution abatement
project operator's or the reclamation project operator's
unlawful activities.

(iii) For damages to adjacent landowners or
downstream riparian landowners which result from a
reclamation project or a water pollution abatement
project where written notice or public notice of the
proposed project was not provided.

(2) Nothing in this chapter shall limit in any way the
liability of a person who the department has found to be in
violation of any of the following acts:

(i) The act of May 31, 1945 (P.L.1198, No.418),
known as the Surface Mining Conservation and Reclamation
Act.

P.L.31, No.1), known as The Bituminous Mine Subsidence
and Land Conservation Act.

(c) Definitions.--As used in this section, the term "cost to
the Commonwealth" does not include the awarding of grant funds
by the department or a Commonwealth agency to a water pollution
abatement project operator who:

(1) provides equipment, funding, materials or services
to the Commonwealth for a reclamation project or a water
pollution abatement project; or

(2) implements any such project.

Section 5. Sections 8111(a) and 8112 of Title 27 are amended
to read:

§ 8111. Exceptions.

(a) General rule.--Any person who under existing law [shall
be] is or may become responsible to reclaim the land adversely
affected by mining or oil or gas extraction, or treat or abate
the water pollution [or any person who for payment or
consideration or who receives some other benefit through a
contract or any person who through a consent order and agreement
or otherwise agrees or is ordered to perform or complete
reclamation or treat or abate water pollution as well as a
surety which provided a bond for the site] caused by mining or
oil or gas extraction shall not be eligible for nor shall that
person receive the benefit of the protections and immunities
available under this chapter, except as specifically provided
for in section 8106(d) (relating liability limitation and
exceptions).
§ 8112. Water supply replacement.

   A public or private water supply affected by contamination or
   the diminution caused by the implementation of a reclamation
   project or the implementation of a water pollution abatement
   project shall be restored or replaced by the [department]
   reclamation project operator or the water pollution abatement
   project operator with an alternate source of water adequate in
   quantity and quality for the purposes served by the water
   supply.

Section 6. This act shall take effect in 60 days.