
90-780 Pennsylvania Data Impact Lab

Fall 2024

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1.0 Introduction

The purpose of this course is to provide a clinical learning environment that involves the use of electronic, relational databases through original data collection as well as data obtained largely from the Commonwealth of Pennsylvania and the US federal government. Students are expected to readily manipulate large, administrative databases to characterize a scio-economic

environment, evaluate it, and analyze the implications for changing key policy variables. They may also engage in survey research and case studies when such public databases are not readily available. Students are expected to develop an understanding of the institutional rules of current law, and predict through the manipulation of data the effects of changes in current law.

The course is organized as follows: a client, a review panel, and a professor responsible for overseeing the project and issuing a grade to each student. The course, 90780 Pennsylvania Data Laboratory, taught by Professor Robert Strauss qualifies as such a required project course for graduation.

2.0 Background

In December, 1999, the US Environmental Protection Agency finalized Phase 1 rules governing the regulation of storm water discharges¹. Subsequently, through Act 68 of 2013, the Pennsylvania General Assembly enabled Pennsylvania Municipal Authorities to provide storm water runoff services as follows:

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

Section 1. Section 5607(a) of Title 53 of the Pennsylvania Consolidated Statutes is amended by adding a paragraph to read: § 5607. Purposes and powers.

(a) Scope of projects permitted.--Every authority incorporated under this chapter shall be a body corporate and politic and shall be for the purposes of financing working capital; acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects of the following kind and character and providing financing for insurance reserves:

* * *

(18) Storm water planning, management and implementation as defined in the articles of incorporation by the governing body. Authorities, existing as of the effective date of this paragraph, already operating storm water controls as part of a combined sewer system, sanitary sewer system or flood control project may continue to operate those projects.

* * *

Section 2. This act shall take effect in 60 days.

APPROVED--The 9th day of July, A.D. 2013.”

¹ See: 68722 Federal Register / Vol. 64, No. 235 / Wednesday, December 8, 1999 / Rules and Regulations <https://www.govinfo.gov/content/pkg/FR-1999-12-08/pdf/99-29181.pdf>

The Commonwealth Court observed in its January, 2023 opinion² that:

“In *DeKalb County, Georgia v. United States*, 108 Fed. Cl. 681 (Fed. Cl. 2013), the United States Court of Federal Claims held that a county ordinance imposing a stormwater charge similarly calculated according to the impervious surface area of developed properties constituted a tax, rather than a fee for service, which the federal government was immune from paying. See 108 Fed. Cl. at 686 & 710.”

On January 4, 2023, the Commonwealth Court of Pennsylvania agreed with West Chester University and the State System of Higher Education’s argument before them that the Borough of West Chester’s storm water runoff charge was a “property tax” rather than a fee. As such the finding that the storm water charge was legally a property tax vacated the University’s obligation to pay the City of West Chester because the University is exempt under the Pennsylvania Constitution from paying property taxes. The matter has been appealed to the Pennsylvania State Supreme Court.

3. Research Questions and Scope of 90-780

The Fall 2024 Pennsylvania Data Impact Project seeks to answer the following questions:

Q1] How significant are storm water runoff charges to the budgets of Pennsylvania local governments in terms of financing the provision of storm water infrastructure services, and the burden such charges constitute for individuals, businesses, and local governments?

Comment: A preliminary review of the Pennsylvania Department of Community and Economic Development statistical reporting systems indicates that stormwater charges are separately reported for municipal authorities, and that underlying independent audit reports in electronic form are available³. Other sources of information to be examined would be the electronic records of the Governments Division of the US Census Bureau, and selected bond offer statements of

Q2] How have other states enabled their local governments to establish and provide storm water runoff services? Have such mechanisms been free of Pennsylvania’s “fees” vs. “property tax” controversies, and/or resolved in local and state courts?

Comment: This will entail a literature review of various legal and public utility research literatures, and reading and summarizing state public utility statutes for some or all other states in the area of permissible financing mechanisms for stormwater run off services.

Q3] What are the storm water run off fees typically used to pay for? Operations, maintenance, new infrastructure?

Comment: determining the nexus between storm water runoff charges and water storm runoff infrastructure likely will be a challenging undertaking and likely require a few case studies to measure the range of practices currently in place.

² See page 15 of the Commonwealth Court’s opinion: [2023-260-m-d-2018.pdf](#)

³ <https://munstats.pa.gov/Reports/ReportInformation2.aspx?report=AuthForm>

Q4] What is the total *potential* financial liability, based on the extent of non-permeable surfaces which is the current operational measure of various Pennsylvania stakeholders (residential property owners, commercial property owners, non profits and exempt organizations (churches, hospitals, universities, local governments (cities, townships, boroughs, townships, school districts, county governments) cost to pay for storm water runoff services?

Q5] Are there national implications for other states and their local governments of measurement and findings in light of the national application of the EPA storm water run off requirements?

Comment: it is likely that current aerial photography and GIS systems can inform this for various entities in Pennsylvania. If such data are not freely available, then this research question will be narrowed.

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