

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1246 Session of
1977

INTRODUCED BY LAUDADIO, MORRIS, J. L. WRIGHT JR., WARGO,
GALLAGHER, GREENFIELD, RIEGER, SCHMITT, COLE, GEISLER, FEE,
DeMEDIO, MANDERINO, GOODMAN, STUBAN, GARZIA, WISE, SWEET,
GIAMMARCO, McCALL, ZWIKL, CALTAGIRONE, ZITTERMAN, MILLIRON,
LETTERMAN, STEWART, BITTINGER, LIVENGOD, D. R. WRIGHT,
BURNS, WEIDNER, WILSON AND DeWEESE, JUNE 7, 1977

REFERRED TO COMMITTEE ON CONSERVATION, JUNE 7, 1977

AN ACT

1 Implementing Article I, section 27 (The Conservation Bill of
2 Rights) by authorizing the creation of natural, scenic and
3 esthetic areas by counties, cities, boroughs, incorporated
4 towns and townships, within their geographic boundaries or
5 two or more such governmental units; and empowering governing
6 bodies of political subdivisions to protect such areas by
7 regulating the erection, reconstruction, alteration,
8 restoration, demolition and razing of buildings and other
9 structures.

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

12 Section 1. Short title.

13 This act shall be known and may be cited as the "Natural,
14 Scenic and Esthetic Areas Act."

15 Section 2. Statement of fact and declaration of policy.

16 The people of the Commonwealth overwhelmingly approved
17 Article I, section 27, (The Conservation Bill of Rights) of the
18 Constitution on May 18, 1971.

19 In approving this amendment to the Constitution of the

1 Commonwealth, the people of Pennsylvania showed that it was
2 their intent to protect their rights to clean air, pure water
3 and to the preservation of the natural, scenic, historic, and
4 esthetic values of the environment.

5 Therefore, it is declared to be a finding of fact by the
6 General Assembly that Article I, section 27, was intended by the
7 people and by its legislative sponsors to be part of the
8 permanent law of the land, binding as any other basic right in
9 Article I of the Constitution and the amendment is therefore
10 self-executing.

11 However, it is the responsibility of the General Assembly
12 from time to time, to pass guidelines for the enforcement of
13 Article I, section 27, in order to make for better management of
14 the conservation rights of the people. These guidelines are not
15 in any way to restrict the basic rights of the people to the
16 full protection of Article I, section 27.

17 In passing Article I, section 27, the people of Pennsylvania
18 said that "public natural resources are the common property of
19 all the people, including generations yet to come" and called
20 upon the Commonwealth, as the trustee of these resources, to
21 "conserve and maintain them for the benefit of all the people."

22 In order that these areas be conserved and maintained for the
23 benefit of all of the people and generations yet to come, it is
24 necessary that they be protected within the Commonwealth of
25 Pennsylvania.

26 Therefore, it is the will of the General Assembly that such
27 areas, as well as surrounding ground, be protected by
28 establishing "Natural, Scenic and Esthetic Areas."

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have, unless the context clearly indicates otherwise, the
2 meanings given to them in this section:

3 "Executive authority." The chairman of the board of
4 commissioners or county council of any county, the mayor of any
5 city, except cities of the first class, the president of council
6 of any borough or incorporated town, the president of the board
7 of commissioners of any township of the first class and the
8 chairman of the board of supervisors of any township of the
9 second class.

10 "Governing body." The board of commissioners or council of
11 any county, the council of any city, except cities of the first
12 class, the council of any borough or incorporated town, the
13 board of commissioners of any township of the first class and
14 the board of supervisors of any township of the second class.

15 Section 4. Creation of "Natural, Scenic and Esthetic Areas."

16 Governing bodies are hereby authorized to create and define,
17 by ordinance, a district or districts within their political
18 subdivisions as a "Natural, Scenic and Esthetic Area." Two or
19 more subdivisions may jointly create such areas, providing they
20 pass identical ordinances stating such intent. In cases in which
21 two or more subdivisions jointly create such an area, notice of
22 the creation shall be transmitted to the Department of
23 Environmental Resources. The Department of Environmental
24 Resources shall certify in writing that such districts have been
25 created by the action of two or more political subdivisions and
26 send such notice to the executive authority of the political
27 subdivisions involved.

28 Section 5. Creation of a "Board of Natural, Scenic and
29 Esthetic Areas."

30 The governing body of the political subdivision, if only one

1 is involved, is authorized to appoint a "Board of Natural,
2 Scenic and Esthetic Areas" immediately upon passage of the
3 resolution establishing the area. If more than one political
4 subdivision is involved, the governing bodies are authorized to
5 appoint such a board immediately upon receipt of certification
6 by the Department of Environmental Resources. The board shall be
7 composed of not less than five members, all of whom shall be
8 residents of the political subdivision or subdivisions involved.
9 A majority of the board shall constitute a quorum and action
10 taken at any meeting shall require the affirmation vote of a
11 majority of the board. The board shall give counsel to the
12 governing body or governing bodies regarding the advisability of
13 issuing any certificate which the governing body or bodies may
14 issue pursuant to this act. All meetings shall be open to the
15 public.

16 Section 6. Duties of governing bodies.

17 (a) Any governing body shall have the power and duty to
18 certify to the appropriateness of the erection, reconstruction,
19 alteration, restoration, demolition or razing of any building or
20 structure, in whole or in part, within the natural, scenic and
21 esthetic area or areas within the political subdivision. Any
22 agency charged by law or by local ordinance with the issuance of
23 permits for the erection, reconstruction, alteration,
24 restoration, demolition or razing of buildings or structures
25 within the area shall issue no permit for any such building
26 changes until a certificate of appropriateness has been received
27 from the governing body.

28 (b) Any governing body in determining whether or not to
29 certify to the appropriateness of the erection, reconstruction,
30 alteration, restoration, demolition or razing of a building or

1 structure, in whole or in part, shall consider the effect which
2 the proposed change will have upon the natural, scenic and
3 esthetic values of the area. Upon giving approval the governing
4 body shall issue a certificate authorizing a permit for the
5 changes in the building. Disapproval of the governing body shall
6 be in writing, giving reasons therefor and a copy shall be given
7 to the applicant and the agency issuing permits.

8 (c) The agency charged by law or by local ordinance with the
9 issuance of permits for the erection, reconstruction,
10 alteration, restoration, demolition or razing of buildings
11 within the natural, scenic and esthetic area shall have power to
12 institute any proceedings, at law or in equity, necessary for
13 the enforcement of this act or of any ordinance adopted pursuant
14 thereto in the same manner as in its enforcement of other
15 building, zoning or planning legislation or regulations.

16 (d) Any person applying for a building permit within the
17 natural, scenic and esthetic area shall be given notice at least
18 five days in advance that the governing body is to consider his
19 application and he may appear before said meeting to explain his
20 reasons therefor. In the event of disapproval of the permit, the
21 governing body shall indicate what changes in plans, if any,
22 would lead to approval.

23 Section 7. Public hearings.

24 Any person applying for a building permit within the natural,
25 scenic and esthetic area shall be given notice if the meeting of
26 the natural, scenic and esthetic area board is to consider such
27 building permit. The meeting shall be open to the public. The
28 person applying for the building permit shall have the right to
29 explain his reasons for requesting such a permit at the hearing.
30 In the event of a failure to make a recommendation for approval,

1 the board shall indicate what changes, if any, in plans and
2 specifications would meet the conditions for protecting the
3 distinctive character of the area.

4 Section 8. Right of appeal.

5 Any aggrieved party shall have the right to appeal from
6 actions of the governing body in the same manner as appeal from
7 decisions of the governing body are usually made.

8 Section 9. Effective date.

9 This act shall take effect immediately.