

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2406

Session of
1980

INTRODUCED BY MESSRS. BITTLE, E. R. LYNCH, E. H. SMITH, FEE,
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BURD, LETTERMAN, HELFRICK AND MADIGAN, MARCH 24, 1980

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 2, 1980

AN ACT

1 Amending the act of December 5, 1972 (P.L.1277, No.283),
2 entitled "An act authorizing the establishment of the
3 Pennsylvania Scenic Rivers System; defining certain terms
4 relating thereto; imposing certain powers and duties on the
5 Department of Environmental Resources and the secretary
6 thereof and authorizing the use of the power of eminent
7 domain in certain cases," removing provisions relating to
8 eminent domain and adding an additional classification known
9 as pastoral rivers.

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

12 Section 1. The title, sections 3, 4, 5, 6, 7, 8 and 9 act of
13 December 5, 1972 (P.L.1277, No.283), known as the "Pennsylvania
14 Scenic Rivers Act," are amended to read:

AN ACT

15
16 Authorizing the establishment of the Pennsylvania Scenic Rivers
17 System; defining certain terms relating thereto; imposing
18 certain powers and duties on the Department of Environmental
19 Resources and the secretary thereof [and authorizing the use
20 of the power of eminent domain in certain cases].

Section 3. Definitions.--As used in this act:

(1) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(2) "Free-flowing" as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway except in segments classified as modified recreational rivers. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the Pennsylvania Scenic Rivers System shall not automatically bar its consideration for such inclusion: Provided, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the Pennsylvania Scenic Rivers System.

[(3) "Scenic easement" means the right to control the use of land for the purpose of protecting the scenic values of the river valley, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.]

Section 4. Pennsylvania Scenic Rivers System.--(a) The Pennsylvania Scenic Rivers System shall comprise rivers:

(1) That are recommended as wild, scenic, pastoral, recreational, or modified recreational rivers by the Department of Environmental Resources; and

(2) That are authorized for inclusion therein by law.

(b) A wild, scenic, pastoral, recreational, or modified recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that

1 possesses one or more of the values referred to in section 2 of
2 this act. Every such river shall be classified, designated and
3 administered as one of the following:

4 (1) Wild river areas - those rivers or sections of rivers
5 that are free of impoundments and generally inaccessible except
6 by trail, with watersheds or shorelines essentially primitive
7 and waters unpolluted.

8 (2) Scenic river areas - those rivers or sections of rivers
9 that are free of impoundments, with shorelines or watersheds
10 still largely primitive and undeveloped, but accessible in
11 places by roads.

12 (3) Pastoral rivers - those rivers or sections of rivers
13 which are free of impoundments excepting historic or restored
14 mill dams. Minor diversions or withdrawals may exist to support
15 agricultural activities such as small agricultural ponds. The
16 shorelines or watersheds may support a full range of farm or
17 farm-related activities, so long as these activities do not
18 conflict with the pastoral nature of the landscape.

19 [(3)] (4) Recreational rivers - those rivers or sections of
20 rivers that are readily accessible, that may have some
21 development along their shorelines and may have undergone some
22 impoundment or diversion in the past.

23 [(4)] (5) Modified recreational rivers - those rivers or
24 sections of rivers in which the flow may be regulated by control
25 devices located upstream. Low dams are permitted in the reach so
26 long as they do not increase the river beyond bank-full width.
27 These reaches are used for human activities which do not
28 substantially interfere with public use of the streams or the
29 enjoyment of their surroundings.

30 Section 5. Potential Designated Rivers as Components of the

1 Pennsylvania Scenic Rivers System; Public Hearings.--(a) The
2 Department of Environmental Resources shall study, conduct
3 public hearings as provided in section 5 (b) of this act, and
4 from time to time submit to the Governor and to the General
5 Assembly proposals for the designation of rivers or sections of
6 rivers as components of the Pennsylvania Scenic Rivers System,
7 as set out in section 4 of this act. IN ADDITION TO THE PUBLIC <—
8 HEARINGS PROVIDED FOR IN SUBSECTION (B) THE DEPARTMENT OF
9 ENVIRONMENTAL RESOURCES SHALL CONDUCT PRIOR TO UNDERTAKING ANY
10 STUDY AN INFORMATIONAL PUBLIC HEARING IN THE COUNTY OR COUNTIES
11 WHERE THE STUDY IS TO BE MADE AT WHICH MEETING THE DEPARTMENT OF
12 ENVIRONMENTAL RESOURCES SHALL ANNOUNCE THE PLANNED STUDY,
13 EXPLAIN THE TECHNIQUES TO BE EMPLOYED IN SUCH STUDY AND DESCRIBE
14 THE SCOPE OF SUCH STUDY. NOTICE OF THE INFORMATIONAL PUBLIC
15 HEARING SHALL BE GIVEN AT LEAST THREE WEEKS BEFORE IN A
16 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY, OR IN THE CASE
17 OF LAND LOCATED IN MORE THAN ONE COUNTY, IN A NEWSPAPER OF
18 GENERAL CIRCULATION IN EACH COUNTY. NOTICE SHALL ALSO BE GIVEN
19 THREE WEEKS IN ADVANCE BY FIRST CLASS MAIL TO THOSE OWNERS OF
20 THE LAND INVOLVED IN THE STUDY, AS SHOWN ON COUNTY TAX
21 ASSESSMENT RECORDS. Each proposal shall specify the category of
22 the proposed river segment and shall be accompanied by a
23 detailed report on all the factors involved as well as a
24 transcript of the public hearings conducted.

25 (b) A public hearing shall be held in the county where the
26 land is situate, at which hearing the department shall set forth
27 the area to be [taken] designated and its proposed [use]
28 classification. If the land is located in more than one county
29 such hearing shall be held in every county wherein the land is
30 situate. Notice of the public hearing shall be given at least

1 three weeks before in a newspaper of general circulation in the
2 county, or in the case of land located in more than one county,
3 in a newspaper of general circulation in each county. Notice
4 shall also be given three weeks in advance by [certified] first
5 class mail to [the] those owners of the land involved, as shown
6 on county tax assessment records.

7 Section 6. [Land Acquisition.--(a) The Department of
8 Environmental Resources is authorized to acquire scenic
9 easements within the authorized boundaries of any component of
10 the Pennsylvania Scenic Rivers System designated by law. The
11 department shall have the power of condemnation in accordance
12 with the provisions of the act of June 22, 1964 (P.L.84), known
13 as the "Eminent Domain Code" when necessary to acquire scenic
14 easements or other easements as are reasonably necessary to give
15 the public access to the river.

16 (b)] Cooperation.--The head of any State department or agency
17 which has administrative jurisdiction over any lands or
18 interests in land within the authorized boundaries of any State-
19 administered component of the Pennsylvania Scenic Rivers System
20 shall cooperate with the Department of Environmental Resources
21 so as to implement the policies and practices of this act.

22 [(c)] Section 7. Acceptance of Gifts.--The Department of
23 Environmental Resources is authorized to accept donations of
24 lands and interests in land, funds, and other property for use
25 in connection with the administration of Pennsylvania Scenic
26 Rivers System.

27 Section [7] 8. National Wild and Scenic Rivers Act.--The
28 Secretary of Environmental Resources is directed to encourage
29 and assist any Federal studies for inclusion of Pennsylvania
30 rivers in a national scenic rivers system. The secretary may

1 enter into written cooperative agreements for joint Federal-
2 State administration of a Pennsylvania component of any national
3 scenic rivers system, provided such agreements for the
4 administration of land and water uses are not less restrictive
5 than those set forth in this act.

6 Section [8] 9. Easements and Rights-of-way.--The Department
7 of Environmental Resources may grant easements and rights-of-way
8 upon, over, under, across, or through any component of the
9 Pennsylvania Scenic Rivers System in accordance with the laws
10 and regulations applicable to the department: Provided, That any
11 conditions precedent to granting such easements and rights-of-
12 way shall be related to the policy and purposes of this act.

13 Section [9] 10. Effective Date.--This act shall take effect
14 immediately.

15 Section 2. This act shall take effect immediately.