

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL  
No. 2406 Session of  
1980

INTRODUCED BY BITTLE, E. R. LYNCH, E. H. SMITH, FEE,  
D. R. WRIGHT, YAHNER, WILT, STEIGHNER, L. E. SMITH, DeVERTER,  
BURD, LETTERMAN, HELFRICK AND MADIGAN, MARCH 25, 1980

REFERRED TO COMMITTEE ON CONSERVATION, MARCH 25, 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:

15 AN ACT

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].

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

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

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

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

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

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

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

27 (b) A wild, scenic, pastoral, recreational, or modified  
28 recreational river area eligible to be included in the system is  
29 a free-flowing stream and the related adjacent land area that  
30 possesses one or more of the values referred to in section 2 of

1 this act. Every such river shall be classified, designated and  
2 administered as one of the following:

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

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

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

18 [(3)] (4) Recreational rivers - those rivers or sections of  
19 rivers that are readily accessible, that may have some  
20 development along their shorelines and may have undergone some  
21 impoundment or diversion in the past.

22 [(4)] (5) Modified recreational rivers - those rivers or  
23 sections of rivers in which the flow may be regulated by control  
24 devices located upstream. Low dams are permitted in the reach so  
25 long as they do not increase the river beyond bank-full width.  
26 These reaches are used for human activities which do not  
27 substantially interfere with public use of the streams or the  
28 enjoyment of their surroundings.

29 Section 5. Potential Designated Rivers as Components of the  
30 Pennsylvania Scenic Rivers System; Public Hearings.--(a) The

1 Department of Environmental Resources shall study, conduct  
2 public hearings as provided in section 5 (b) of this act, and  
3 from time to time submit to the Governor and to the General  
4 Assembly proposals for the designation of rivers or sections of  
5 rivers as components of the Pennsylvania Scenic Rivers System,  
6 as set out in section 4 of this act. Each proposal shall specify  
7 the category of the proposed river segment and shall be  
8 accompanied by a detailed report on all the factors involved as  
9 well as a transcript of the public hearings conducted.

10 (b) A public hearing shall be held in the county where the  
11 land is situate, at which hearing the department shall set forth  
12 the area to be [taken] designated and its proposed [use]  
13 classification. If the land is located in more than one county  
14 such hearing shall be held in every county wherein the land is  
15 situate. Notice of the public hearing shall be given at least  
16 three weeks before in a newspaper of general circulation in the  
17 county, or in the case of land located in more than one county,  
18 in a newspaper of general circulation in each county. Notice  
19 shall also be given three weeks in advance by [certified] first  
20 class mail to [the] those owners of the land involved, as shown  
21 on county tax assessment records.

22 Section 6. [Land Acquisition.--(a) The Department of  
23 Environmental Resources is authorized to acquire scenic  
24 easements within the authorized boundaries of any component of  
25 the Pennsylvania Scenic Rivers System designated by law. The  
26 department shall have the power of condemnation in accordance  
27 with the provisions of the act of June 22, 1964 (P.L.84), known  
28 as the "Eminent Domain Code" when necessary to acquire scenic  
29 easements or other easements as are reasonably necessary to give  
30 the public access to the river.

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

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

12 Section [7] 8. National Wild and Scenic Rivers Act.--The  
13 Secretary of Environmental Resources is directed to encourage  
14 and assist any Federal studies for inclusion of Pennsylvania  
15 rivers in a national scenic rivers system. The secretary may  
16 enter into written cooperative agreements for joint Federal-  
17 State administration of a Pennsylvania component of any national  
18 scenic rivers system, provided such agreements for the  
19 administration of land and water uses are not less restrictive  
20 than those set forth in this act.

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

28 Section [9] 10. Effective Date.--This act shall take effect  
29 immediately.

30 Section 2. This act shall take effect immediately.