

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 690 Session of 2023

INTRODUCED BY YAW, BARTOLOTTA, HUTCHINSON, BAKER, MARTIN,  
LAUGHLIN, ROTHMAN, BREWSTER AND DUSH, MAY 5, 2023

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 5, 2023

AN ACT

1 Amending the act of November 26, 1978 (P.L.1375, No.325),  
2 entitled "An act providing for the regulation and safety of  
3 dams and reservoirs, water obstructions and encroachments;  
4 consolidating and clarifying the programs of the Department  
5 of Environmental Resources and Navigation Commission for the  
6 Delaware River; establishing penalties and repealing certain  
7 acts," providing for county conservation district stream  
8 reconstruction emergency permit authorizations.

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

11 Section 1. The act of November 26, 1978 (P.L.1375, No.325),  
12 known as the Dam Safety and Encroachments Act, is amended by  
13 adding a section to read:

14 Section 17.1. County conservation district stream  
15 reconstruction emergency permit authorizations.

16 (a) A county conservation district with an approved  
17 delegation agreement in accordance with sections 6 and 17 and  
18 sections 9(11) and 11(2) of the act of May 15, 1945 (P.L.547,  
19 No.217), known as the "Conservation District Law," to administer  
20 certain activities under 25 Pa. Code Ch. 105 (relating to dam  
21 safety and waterway management), may request an amendment to the

1 approved delegation agreement for the Water Obstruction and  
2 Encroachment Program from the department for the purposes  
3 specified under this section.

4 (b) As a county stream reconstruction program authorized by  
5 the department under this subsection, a county conservation  
6 district may propose methodologies for stream reconstruction  
7 activities in response to or in anticipation of significant  
8 flood events to restore the natural regimen and ecology of  
9 watercourses using appropriate methodologies that are based on  
10 current scientific principles and practices and are in  
11 accordance with 25 Pa. Code Ch. 105. The department shall review  
12 a proposed county stream reconstruction program under this  
13 subsection for conformance with current scientific principles  
14 and practices and 25 Pa. Code Ch. 105. The department shall  
15 provide a record of decision on the proposed county stream  
16 reconstruction program to the county conservation district,  
17 including a detailed technical review of the proposed county  
18 stream reconstruction program.

19 (c) Upon approval of the county stream reconstruction  
20 program under subsection (b) by the department, the county  
21 conservation district may request an amendment to the county  
22 conservation district's approved delegation agreement for the  
23 Water Obstruction and Encroachment Program from the department  
24 which authorizes the county conservation district to issue  
25 emergency permits for stream reconstruction. The department may  
26 not unreasonably withhold the authorization of the amendment.  
27 The authority delegated under this subsection for the county  
28 conservation district to issue emergency permits shall only  
29 include emergency stream reconstruction in accordance with the  
30 approved county stream reconstruction program under subsection

1 (b), including activities which may prevent a flooding emergency  
2 event in the future.

3 (d) The county conservation district may authorize stream  
4 reconstruction activities under an emergency permit in  
5 accordance with the approved county stream reconstruction  
6 program under subsection (b) and the final amended and approved  
7 delegation agreement for the Water Obstruction and Encroachment  
8 Program for the county.

9 (e) The department shall develop a stream reconstruction  
10 emergency permit form for use in accordance with this section.

11 (f) The department shall retain the duty to authorize  
12 emergency permits for all other waterway obstruction and  
13 encroachment activities under 25 Pa. Code Ch. 105 if conditions  
14 threaten public safety and the environment.

15 (g) The department shall transmit a notice of each amendment  
16 to an approved delegation agreement under this section to the  
17 Legislative Reference Bureau for publication in the Pennsylvania  
18 Bulletin.

19 (h) Notwithstanding any provision of the "Conservation  
20 District Law" or 2 Pa.C.S. Chs. 5 Subch. B (relating to practice  
21 and procedure of local agencies) and 7 Subch. B (relating to  
22 judicial review of local agency action), known as the "Local  
23 Agency Law," a person aggrieved by an action of a county  
24 conservation district under an approved delegation agreement  
25 which is amended under this section may appeal the action to the  
26 department within 30 days after notice of the action. A person  
27 aggrieved by an action of the department regarding the initial  
28 appeal under this subsection may appeal the action to the  
29 Environmental Hearing Board in accordance with section 24.

30 (i) Within 60 days of the effective date of this section,

1 the department shall provide notice to each county conservation  
2 district of the availability of a county stream reconstruction  
3 program under this section.

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