

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 615

Session of
1983

INTRODUCED BY O'DONNELL, GEORGE, KUKOVICH, SIRIANNI, CAWLEY,
BELFANTI, CIMINI, PRATT, FATTAH, F. E. TAYLOR, CALTAGIRONE,
JAROLIN, EVANS, COY, WACHOB, POTT, BLAUM, SEVENTY, DeLUCA,
PRESTON, TIGUE, STEIGHNER, PISTELLA, WARGO, D. R. WRIGHT,
SALVATORE, MORRIS, MAIALE, ZWIKL, DALEY, PERZEL, FISCHER,
LUCYK, LASHINGER, HALUSKA, SWEET, GEIST, LLOYD, ITKIN,
E. Z. TAYLOR, ALDERETTE, DEAL, COLAFELLA, MICHLOVIC AND
WIGGINS, MARCH 22, 1983

SENATE FISHER, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE,
AS AMENDED, MAY 21, 1984

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," directing the Department of
21 Environmental Resources to devise and implement a State park
22 and forest development plan to employ Pennsylvania citizens; <—
23 AND AUTHORIZING THE DEPARTMENT TO FRANCHISE HYDROELECTRIC
24 GENERATION ACTIVITY.

25 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
3 as The Administrative Code of 1929, is amended by adding a <—
4 ~~section~~ SECTIONS to read: <—

5 Section 1929-A. Development of State Parks and Forests.--(a)
6 The department shall devise a plan for the development of State
7 parks and forests through employment providing activities for
8 Pennsylvania citizens including, but not limited to, the
9 maintenance, construction or expansion of camps, cabins, biking
10 trails, ski trails, boat launching and mooring areas and
11 environmental centers.

12 (b) This plan shall be transmitted to the General Assembly,
13 through the office of the Chief Clerk of the House and the
14 Secretary of the Senate, not later than December 31, 1984.

15 SECTION 1930-A. HYDROELECTRIC FACILITIES.--(A) AS USED IN <—
16 THIS SECTION THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE
17 MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

18 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES.

19 "HYDROELECTRIC FACILITY." ANY WATER CONDUIT, POWERHOUSE,
20 MACHINERY AND RELATED EQUIPMENT NECESSARY OR APPROPRIATE FOR THE
21 GENERATION OF HYDROELECTRIC POWER AND ANY ELECTRICAL LINE OR
22 LINES AND RELATED EQUIPMENT NECESSARY TO TRANSMIT THE SAME TO AN
23 EXISTING ELECTRICAL TRANSMISSION OR DISTRIBUTION LINE.

24 "HYDROELECTRIC FRANCHISE." THE RIGHT TO CONSTRUCT, OPERATE
25 AND MAINTAIN HYDROELECTRIC FACILITY UTILIZING LANDS, WATER
26 RIGHTS OR FACILITIES OF THE COMMONWEALTH FOR THE DEVELOPMENT BY
27 THE PERSON WHO HOLDS THE RIGHT OF THE HYDROELECTRIC POTENTIAL OF
28 OR AT SUCH LANDS, WATER RIGHTS OR FACILITIES, SUBJECT TO TERMS
29 AND CONDITIONS PRESCRIBED FOR THE PROTECTION OF AUTHORIZED
30 PUBLIC PURPOSES AND USES OF THE LANDS, WATER RIGHTS OR

1 FACILITIES.

2 "LANDS, WATER RIGHTS OR FACILITIES OF THE COMMONWEALTH." ANY
3 LANDS, INCLUDING SUBMERGED LANDS, WATER RIGHTS, DAMS,
4 RESERVOIRS, CANALS AND OTHER FACILITIES AND APPURTENANT WORKS,
5 OWNED BY THE COMMONWEALTH AND UNDER THE CONTROL OF THE
6 DEPARTMENT.

7 "PERSON." ANY NATURAL PERSON, PARTNERSHIP, ASSOCIATION,
8 CORPORATION, MUNICIPALITY, MUNICIPAL AUTHORITY OR ANY OTHER
9 LEGAL ENTITY WHATSOEVER WHICH IS RECOGNIZED BY LAW AS THE
10 SUBJECT OF RIGHTS AND DUTIES. THE TERM DOES NOT INCLUDE A
11 DEPARTMENT, BOARD, COMMISSION OR STATEWIDE AUTHORITY OF THE
12 COMMONWEALTH.

13 (B) ONLY A PERSON AUTHORIZED TO DO SO BY A HYDROELECTRIC
14 FRANCHISE GRANTED PURSUANT TO THIS SECTION MAY UTILIZE LANDS,
15 WATER RIGHTS OR FACILITIES OF THE COMMONWEALTH, FOR THE
16 CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY HYDROELECTRIC
17 FACILITY.

18 (C) THE DEPARTMENT SHALL HAVE THE POWER TO GRANT TO ANY
19 PERSON ANY HYDROELECTRIC FRANCHISE AND ANY NECESSARY LICENSE,
20 RIGHT-OF-WAY OR LEASE FOR THE CONSTRUCTION, OPERATION AND
21 MAINTENANCE OF ANY HYDROELECTRIC FACILITY BY SUCH PERSON
22 UTILIZING THE LANDS, WATER RIGHTS OR FACILITIES OF THE
23 COMMONWEALTH, SUBJECT TO THE PROVISIONS OF THIS SECTION.

24 (D) NO HYDROELECTRIC FRANCHISE SHALL PERMIT ANY UNDUE
25 IMPAIRMENT OF THE AUTHORIZED PUBLIC PURPOSES AND USES OF ANY
26 LANDS, WATER RIGHTS OR FACILITIES OF THE COMMONWEALTH BEING
27 UTILIZED; AND THE CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY
28 FACILITY PURSUANT TO A HYDROELECTRIC FRANCHISE THAT UNDULY
29 IMPAIRS THE SAME IS HEREBY PROHIBITED. THE DEPARTMENT SHALL HAVE
30 THE POWER TO INCLUDE IN EACH FRANCHISE THE TERMS AND CONDITIONS

1 IT DEEMS NECESSARY TO ASSURE THE PROVISIONS OF THIS SUBSECTION.
2 ALL DETERMINATIONS AS TO WHETHER ANY HYDROELECTRIC FACILITY THAT
3 IS OR IS PROPOSED TO BE CONSTRUCTED, OPERATED OR MAINTAINED
4 PURSUANT TO A HYDROELECTRIC FRANCHISE UNDULY IMPAIRS SUCH LANDS,
5 WATER RIGHTS OR FACILITIES SHALL BE MADE BY THE DEPARTMENT.

6 (E) THE DEPARTMENT SHALL REQUIRE PERSONS HOLDING A
7 HYDROELECTRIC FRANCHISE TO PAY INTO THE TREASURY OF THE
8 COMMONWEALTH REASONABLE FEES, CHARGES, ROYALTIES OR LEASE
9 PAYMENTS OR ANY COMBINATION THEREOF, IN AN AMOUNT SET BY THE
10 DEPARTMENT, FOR THE PRIVILEGE OF DEVELOPING HYDROELECTRIC POWER
11 UTILIZING THE LANDS, WATER RIGHTS OR FACILITIES OF THE
12 COMMONWEALTH. ANY SUCH FEES, CHARGES, ROYALTIES OR LEASE
13 PAYMENTS MAY BE ADJUSTED FROM TIME TO TIME BY THE DEPARTMENT AS
14 CONDITIONS MAY REQUIRE.

15 (F) A HYDROELECTRIC FRANCHISE SHALL BE FOR A PERIOD NOT TO
16 EXCEED FIFTY (50) YEARS.

17 (G) ANY RIGHTS GRANTED UNDER SUBSECTION (C) OF THIS SECTION
18 SHALL BE ON THE BASIS OF A COMPETITIVE BID OR COMPETITIVE
19 PROPOSAL PROCESS EXCEPT WHERE THE PERSON ALREADY HAS BEEN
20 GRANTED A LICENSE UNDER THE FEDERAL POWER ACT (41 STAT. 1077, 16
21 U.S.C. § 791A ET SEQ.), IN WHICH CASE ANY RIGHTS GRANTED SHALL
22 BE GRANTED TO THAT PERSON.

23 (H) THERE IS HEREBY ESTABLISHED IN THE GENERAL FUND A
24 RESTRICTED ACCOUNT TO BE KNOWN AS THE HYDROELECTRIC RESOURCE
25 FUND. FEES, CHARGES, ROYALTIES AND LEASE PAYMENTS RECEIVED UNDER
26 THIS SECTION SHALL BE DEPOSITED IN THIS FUND AND ARE HEREBY
27 APPROPRIATED TO THE DEPARTMENT TO BE USED SOLELY FOR THE
28 ADMINISTRATION OF THIS SECTION AND THE OPERATION, MAINTENANCE
29 AND RESTORATION OF LANDS, WATER RIGHTS OR FACILITIES OF THE
30 COMMONWEALTH.

1 (I) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE
2 OR ENCOURAGE THE DEPARTMENT TO CONSTRUCT A NEW DAM OR RESERVOIR
3 FOR THE SOLE OR PRIMARY PURPOSE OF GENERATING HYDROELECTRIC
4 ENERGY OR AWARDED A HYDROELECTRIC FRANCHISE.

5 Section 2. This act shall take effect immediately.