

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 175 Session of
1993INTRODUCED BY WOZNIAK, PETRARCA, TRELLO, E. Z. TAYLOR AND
CAWLEY, FEBRUARY 3, 1993AS REPORTED FROM COMMITTEE ON TOURISM AND RECREATIONAL
DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED,
DECEMBER 14, 1993

AN ACT

1 To promote and encourage the protection, preservation and
2 conservation of locally designated scenic roads.

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1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. Short title.

4 This act shall be known and may be cited as the Scenic Roads
5 Conservation Act.

6 Section 2. Declaration of policy.

7 It is the declared policy of the Commonwealth to encourage
8 the preservation of the natural, scenic, cultural or historical
9 and aesthetic values of the environment. This Commonwealth
10 contains many natural resources that provide raw materials for
11 economic growth and development, affect environmental quality
12 and afford excellent recreational opportunities. Many scenic
13 roads are in jeopardy of losing their unique values. Rural roads
14 have been widened, straightened, paved or otherwise altered to
15 accommodate increased traffic and provide new access. Often
16 these alterations have damaged environmental features and, in
17 turn, degraded the scenic and cultural values associated with
18 some of these roads. In addition, these altered roads often open
19 areas to unplanned development and additional traffic. It is the
20 purpose of this act to provide a means by which certain scenic
21 roads can be identified, protected and maintained by and for
22 local residents. The conservation of scenic roads as a natural
23 resource will assist the Commonwealth's effort to promote
24 economic growth and protect environmental quality.

25 Section 3. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Local governmental unit." Any city, borough, ~~county,~~
30 township or incorporated town.

<—

1 "Local road." Any public road not on the State highway
2 system or the Pennsylvania Turnpike System.

3 "Normal maintenance." The level of maintenance necessary for
4 safe public travel by auto, bicycle or recreational equipment
5 that still preserves the scenic quality of the route.

6 "Portion of a road." A one-half mile segment of a road, or
7 more.

8 "Scenic road." A public road that can be either dirt, gravel
9 or blacktop, which has significant features that give character
10 to the landscape. Those features include, but are not limited
11 to, rugged terrain, native vegetation, open areas with scenic
12 vistas and areas of cultural or historical significance.

13 Section 4. Scenic road designation procedure.

14 (a) Proposal for creation.--Any owner or owners of land
15 abutting a road may submit a written proposal to the local
16 governing unit for the purpose of designating that road or
17 portions of that road as scenic. The proposal must include the
18 signatures of two-thirds of the property owners who have at
19 least 66% of the front footage of the designated length of road,
20 as well as a description of the characteristics of the road that
21 qualify it for scenic road status and other characteristics that
22 enhance the scenic quality of the road. If the proposed road is
23 situated in more than one local governmental unit, the proposal
24 shall be submitted to the governing bodies of all the local
25 governments affected. The entire length of a road or a portion
26 of a road may be designated as a scenic road.

27 (b) Proposal review.--Upon receipt of a written proposal,
28 the local governmental unit shall review the proposal. Within 45
29 days of receipt of the proposal, the local governmental unit
30 shall cause to be published a notice of public hearing, as

1 defined by law. ADDITIONALLY, THE GOVERNMENTAL UNIT SHALL NOTIFY <—
2 IN WRITING ALL OWNERS OF LAND ABUTTING THE PROPOSED SCENIC ROAD
3 AT LEAST 30 DAYS IN ADVANCE OF THE PUBLIC HEARING. This hearing
4 may be held in connection with a regular local governmental unit
5 meeting. At the public hearing, written comments may be received
6 and the public may be heard. The local governmental unit shall
7 reach a decision on the adoption of the proposal within 65 days
8 of the public hearing.

9 (c) Designation expiration.--The designation of the scenic
10 road shall carry an effective period of not less than seven
11 years. At the expiration, the designation is hereby terminated
12 unless, within 180 days prior to the expiration, two-thirds of
13 the landowners owning 66% of the front footage of the property
14 abutting the scenically designated portion of the road request
15 in writing to the local governmental unit, that they wish to
16 have a scenic road designation continue. Failure of the local <—
17 governmental unit to act within the 180 day period prior to
18 expiration shall be deemed as approval of the continuation of
19 the scenic road designation for a like period. UPON THE RECEIPT <—
20 OF THIS WRITTEN PROPOSAL, THE LOCAL GOVERNMENTAL UNIT SHALL
21 RESPOND AS REQUIRED UNDER SUBSECTION (B).

22 (D) CHANGE IN ROAD USAGE.--THE SEVEN-YEAR PERIOD DESCRIBED <—
23 IN SUBSECTION (C) MAY BE SHORTENED BY THE GOVERNING BODY OF THE
24 LOCAL GOVERNMENTAL UNIT IF THE TRAFFIC USAGE OF THE ROAD
25 INCREASES TO A POINT WHERE THE ROAD NEEDS TO BE UPGRADED OR
26 IMPROVED IN ORDER TO PROPERLY HANDLE THE INCREASED TRAFFIC
27 USAGE.

28 Section 5. Designation criteria.

29 (a) Factors to be considered.--The following factors shall
30 be considered by the local governmental unit and at public

1 hearings:

2 (1) A scenic road or portion of the road must meet the
3 following criteria:

4 (i) Be a local road. A State road may be designated
5 as scenic and within the provisions of this act for the
6 limited purpose of applying land use protection powers
7 described in section 8(d).

8 (ii) Have a dirt, gravel or paved surface.

9 (Department of Transportation classification Type 10, 20
10 or 30).

11 (2) A scenic road must meet at least one of the
12 following criteria:

13 (i) Have outstanding natural features along its
14 borders such as rugged terrain, native vegetation or
15 areas with scenic vistas.

16 (ii) Provide the traveler an opportunity for unique
17 and natural visual experiences.

18 (iii) Have historic or cultural significance or
19 access to nationally or State-recognized historic or
20 scenic sites.

21 (iv) Have other features of considerable local
22 importance.

23 (b) Resource material.--In considering the proposed scenic
24 road or portion as set forth in this section, various resource
25 materials may be used, including, but not limited to, the
26 following:

27 (1) The local governmental unit's zoning ordinance or
28 plans.

29 (2) Any other relevant published data, maps, charts or
30 land use surveys made by any Federal or State agency.

1 Section 6. Notice of decision.

2 (a) Action by governing body.--Upon designation of a scenic
3 road, the decision shall be filed with the local planning
4 commission and the county planning commission, AND THE LOCAL <—
5 GOVERNMENTAL UNIT SHALL NOTIFY ALL OWNERS OF LAND ABUTTING THE
6 SCENIC ROAD IN WRITING WITHIN 30 DAYS OF THE DESIGNATION.

7 (b) Effective date of creation of scenic road.--The proposed
8 scenic road designation shall become effective upon the adoption
9 of the same by the governing body. HOWEVER, THE LOCAL <—
10 GOVERNMENTAL UNIT IS PROHIBITED FROM APPLYING THE POWERS OF THIS
11 ACT IN ANY FINAL REVIEW OF A SUBDIVISION APPLICATION WHERE
12 PRELIMINARY APPROVAL HAS BEEN PREVIOUSLY GRANTED.

13 Section 7. Appeals.

14 Any aggrieved landowner whose land abuts a scenic road may
15 appeal in the court of common pleas any action of the local
16 governmental unit taken under ~~section 4~~ THIS ACT. <—

17 Section 8. Limitations on government regulations.

18 (a) General rule.--Any local governmental unit creating a
19 scenic road shall encourage the protection and preservation of
20 the scenic qualities along the roadway after its designation as
21 a scenic road. ~~No local laws or ordinances shall be enacted that <—~~
22 ~~would have a significant adverse impact on the scenic quality of~~
23 ~~the roadway, as outlined in the petition.~~

24 (b) Public safety.--Notwithstanding subsection (a), the
25 maintenance and repair that may be necessary to continue public
26 safety may be performed.

27 (c) Maintenance.--Any alterations or improvements,
28 including, but not limited to, roadbed maintenance, drainage
29 maintenance, vegetation maintenance and winter maintenance on a
30 scenic road, shall be designed to be consistent with the

1 character of the scenic road and designed so as to do the least
2 possible damage to the scenic and environmental character of a
3 scenic road, CONSISTENT WITH SAFETY CONSIDERATIONS. THE <—
4 DEPARTMENT OF TRANSPORTATION SHALL NOT BE PRECLUDED FROM
5 PERFORMING MAINTENANCE IN ACCORDANCE WITH ITS STANDARDS AT THE
6 INTERSECTION OF A STATE HIGHWAY AND A SCENIC ROAD.

7 ~~(d) Land use protection. Local authorities are encouraged~~ <—
8 ~~to preserve the natural and scenic characteristics of land along~~
9 ~~scenic roads. Local powers, building setback regulations, access~~
10 ~~control and other powers may be used to protect and preserve the~~
11 ~~scenic quality of the road by discouraging industrial, high-~~
12 ~~density residential and most commercial development.~~

13 (D) RESIDENTIAL HOUSING.--LOCAL GOVERNMENTAL UNITS ARE <—
14 PROHIBITED FROM DENYING SUBDIVISION APPROVAL FOR RESIDENTIAL
15 HOUSING THROUGH THE IMPLEMENTATION OF THIS ACT.

16 (e) Utility installation.--All utility companies shall be
17 encouraged to bury future electric power, communication and
18 distribution lines WHEN THEY ARE LOCATED on private easements. <—
19 Where it is not possible, additional lines may be placed on
20 existing poles. Restoration of the scenic quality of the road
21 shall be required for all utility and commercial installations
22 within the right-of-way of all scenic roads. NOTHING IN THIS ACT <—
23 SHALL INTERFERE WITH THE DUTIES OF THE UTILITY COMPANIES TO
24 SATISFY REQUIREMENTS OF FEDERAL AND STATE LAWS AND REGULATIONS
25 REGARDING PUBLIC SAFETY.

26 (f) Alterations advertised.--Anything in addition to normal
27 maintenance, as defined under this act, shall be advertised to
28 the public, and plans and drawings shall be made available to
29 the public three days prior to the beginning of work.

30 Section 9. Limitations on landowners.

1 Within the road right-of-way of a designated scenic road,
2 landowners are encouraged to maintain or improve their ~~property~~ <—
3 UNDERLYING EASEMENT OUTSIDE THE ROADWAY in ways that will be <—
4 consistent with the scenic qualities of the road AND TO UTILIZE <—
5 ACCEPTABLE SILVICULTURAL PRINCIPLES WHEN ENGAGING IN THE
6 PRACTICE OF FORESTRY, BUT SHALL NOT BE DENIED DRIVEWAY ACCESS TO <—
7 THE ROAD BY THE LOCAL GOVERNMENTAL UNIT. Outside the right-of-
8 way, nothing shall prevent the landowner from maintaining or
9 improving his or her property, nor shall anything in this act
10 preclude the enforcement of the act of June 10, 1982 (P.L.454,
11 No.133), entitled "An act protecting agricultural operations
12 from nuisance suits and ordinances under certain ~~circumstances.~~" <—
13 CIRCUMSTANCES," AND THE ACT OF JULY 31, 1968 (P.L.805, NO.247), <—
14 KNOWN AS THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE.

15 Section 10. Policy of Commonwealth agencies.

16 ~~It shall be the policy of all~~ ALL Commonwealth agencies SHALL <—
17 COOPERATE WITH LOCAL GOVERNMENTS to encourage the maintenance of
18 the scenic beauty of designated scenic roads, and SHALL REVIEW <—
19 their administrative regulations and procedures ~~shall be~~ <—
20 ~~modified~~ to this end insofar as is consistent with the promotion
21 of public health and safety, with the provision of any Federal
22 statutes, standards, criteria, rules, regulations or policies,
23 and other requirements of Federal agencies, including provisions
24 applicable only to obtaining Federal grants, loans or other
25 funding.

26 ~~Section 11. Appropriation.~~ <—

27 ~~Any road so designated as scenic shall be included in any~~
28 SECTION 11. MUNICIPAL ALLOCATION. <—

29 DESIGNATION OF A ROAD AS SCENIC SHALL NOT CAUSE IT TO BE
30 EXCLUDED IN THE formula for computing eligibility of a local

1 governmental unit to receive road fund allocations UNDER THE ACT <—
2 OF JUNE 1, 1956 (1955 P.L.1944, NO.655), REFERRED TO AS THE
3 LIQUID FUELS TAX MUNICIPAL ALLOCATION LAW.

4 SECTION 12. ACCESS CONTROL.

5 NOTHING IN THIS ACT SHALL OPERATE TO GIVE TO A MUNICIPALITY
6 CONTROL OF ACCESS TO A STATE HIGHWAY. CONTROL OF ACCESS TO A
7 STATE HIGHWAY CAN BE TRANSFERRED TO A MUNICIPALITY ONLY BY
8 AGREEMENT WITH THE DEPARTMENT OF TRANSPORTATION.

9 Section ~~12~~ 13. Effective date. <—

10 This act shall take effect immediately.