

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2698 Session of
1994

INTRODUCED BY COY, GEORGE, DeWEESE, STURLA, STETLER, MASLAND,
TULLI, CURRY, NAILOR, KUKOVICH, STEIGHNER, BLAUM, MUNDY,
STABACK, BELARDI, ITKIN, LAUGHLIN, CORRIGAN, McCALL,
BATTISTO, FREEMAN, SURRA, YANDRISEVITS, MARKOSEK, MAYERNIK,
DERMODY, ROONEY, MELIO, RUDY AND VANCE, APRIL 13, 1994

AS REPORTED FROM COMMITTEE ON CONSERVATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 28, 1994

AN ACT

1 Creating a Pennsylvania rivers conservation program to conserve
2 and enhance the river resources of this Commonwealth through
3 development and implementation of river conservation plans;
4 establishing the Pennsylvania Rivers Conservation Registry to
5 recognize local river conservation activities; establishing a
6 Rivers Conservation Board; providing technical and financial
7 assistance to municipalities and river support groups for
8 river conservation planning and implementation activities.

9 TABLE OF CONTENTS

- 10 Section 1. Short title.
11 Section 2. Findings and purpose.
12 Section 3. Definitions.
13 Section 4. Powers and duties of department.
14 Section 5. Rivers Conservation Board.
15 Section 6. River conservation plans.
16 Section 7. River conservation planning grants.
17 Section 8. Pennsylvania Rivers Conservation Registry.
18 Section 9. River conservation implementation grants.
19 Section 10. Technical assistance.

1 Section 11. Pennsylvania Scenic Rivers System.
2 Section 12. Coordination with other State programs.
3 Section 13. Consistency reviews.
4 Section 14. Funding limitations and cost sharing.
5 Section 15. Eligible use of funds.
6 Section 16. Ineligible use of funds.
7 Section 17. Funding.
8 Section 18. Severability.
9 Section 19. Repeals.
10 Section 20. Effective date.

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

13 Section 1. Short title.

14 This act shall be known and may be cited as the Pennsylvania
15 Rivers Conservation Act.

16 Section 2. Findings and purpose.

17 (a) Findings.--The General Assembly finds and declares as
18 follows:

19 (1) Pennsylvania's rivers have significant values that
20 contribute greatly to the quality of life for the citizens of
21 this Commonwealth. These values include recreation; tourism;
22 sources of drinking water; plant, wildlife and aquatic
23 habitat; historic, geologic, scientific and cultural
24 significance; economic and industrial use; agricultural use;
25 transportation; and aesthetic and scenic value.

26 (2) Rivers are a significant part of many municipalities
27 in this Commonwealth and many individuals and community
28 groups are interested in conserving river resources and
29 values. The conservation of the river resources of this
30 Commonwealth by municipalities and river support groups is

desirable, PARTICULARLY WHEN UNDERTAKEN ON A WATERSHED
APPROACH, and it is in the Commonwealth's interest to promote
and support these conservation activities.

(3) Public interest in river conservation continues to
grow and the Department of Environmental Resources is unable
to address the increasing number of requests for rivers
conservation assistance and support through the existing
authorities found in the act of December 5, 1972 (P.L.1277,
No.283), known as the Pennsylvania Scenic Rivers Act.

(b) Purpose.--The purposes of this act are to:

(1) Conserve ~~and enhance~~, ENHANCE AND RESTORE the river
resources of this Commonwealth through the development and
implementation of locally initiated river conservation plans.

(2) Provide technical and financial assistance for local
river conservation planning and activities.

(3) Establish the Pennsylvania Rivers Conservation
Registry to recognize local efforts for river conservation
planning activities and to encourage State agencies to take
actions consistent with local river conservation plans.

Section 3. Definitions.

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

"Board." The Rivers Conservation Board established under
section 5.

"COUNTY." ANY COUNTY OF THIS COMMONWEALTH THROUGH WHICH A
RIVER RUNS OR OF WHICH A RIVER CREATES ALL OR A PART OF THE
BOUNDARY.

"Department." The Department of Environmental Resources of
the Commonwealth.

1 ~~"Municipalities." Any municipality, except counties, which~~ <—
2 ~~the river flows through or across or where the river creates all~~
3 ~~or part of the boundaries of the municipality.~~

4 "MUNICIPAL AUTHORITY." A BODY POLITIC AND CORPORATE, CREATED <—
5 PURSUANT TO THE ACT OF MAY 2, 1945 (P.L.382, NO.164), KNOWN AS
6 THE MUNICIPALITY AUTHORITIES ACT OF 1945.

7 "MUNICIPALITY." ANY CITY, BOROUGH, INCORPORATED TOWN,
8 TOWNSHIP OR HOME RULE MUNICIPALITY THROUGH WHICH THE RIVER FLOWS
9 OR ALL OR PART OF THE BOUNDARIES WHICH THE RIVER CREATES.

10 "Registry." The Pennsylvania Rivers Conservation Registry.

11 "River." A flowing body of water or estuary or a section,
12 portion or tributary thereof, including rivers, streams, creeks
13 and runs.

14 "River conservation implementation grants." Grants
15 established to be used for the ~~development~~ IMPLEMENTATION of <—
16 river conservation plans.

17 "River conservation plan." A strategy for maintaining or
18 enhancing river resources and values through formulation of a
19 detailed program of action for a specific river.

20 "River conservation planning grants." Grants established to
21 be used for the development of river conservation plans.

22 "River support groups." Not-for-profit organizations that
23 have been designated by one or more municipalities OR COUNTIES <—
24 to act on their behalf to apply for river conservation planning
25 grants or river conservation implementation grants.

26 Section 4. Powers and duties of department.

27 The Department of Environmental Resources shall have the
28 power and its duty shall be to:

29 (1) Establish procedures for river conservation planning
30 grants to provide funding for local river conservation

1 planning efforts.

2 (2) Establish the Pennsylvania Rivers Conservation
3 Registry to recognize local efforts to protect rivers.

4 (3) Establish procedures for river conservation
5 implementation grants to carry out projects and/or activities
6 for rivers listed in the Pennsylvania Rivers Conservation
7 Registry.

8 (4) Establish a rivers' conservation technical
9 assistance program to assist municipalities and river support
10 groups in river conservation planning and implementation
11 activities.

12 (5) Upon the recommendation of the Rivers Conservation
13 Board, to provide up to 50% financial assistance to
14 municipalities and river support groups for the specific
15 purposes of developing river conservation plans and for the
16 implementation of recommendations contained in the plans.

17 (6) Perform these duties consistent with the provisions
18 of this act which the department deems necessary or proper
19 for effective implementation of this act.

20 Section 5. Rivers Conservation Board.

21 (a) Establishment.--There is created a Rivers Conservation
22 Board, which shall consist of five persons, including the
23 Secretary of Environmental Resources and one person appointed by
24 each of the following: the President pro tempore of the Senate,
25 the Minority Leader of the Senate, the Speaker of the House of
26 Representatives and the Minority Leader of the House of
27 Representatives. Persons appointed to the board shall serve
28 without compensation and at the pleasure of their respective
29 appointing officers.

30 (b) Organization.--The Secretary of Environmental Resources

1 shall call the initial meeting of the board and shall serve AS <—
2 ITS INITIAL CHAIRPERSON for one year ~~thereafter~~ or until a <—
3 successor is chosen by the board, whichever occurs later. In
4 successive years, the board shall elect a chair from amongst its
5 members for one-year terms, or to fill any vacancy in the chair
6 that may occur. Three members shall constitute a quorum for
7 purposes of conducting meetings of the board.

8 (c) Powers.--The board shall have the power and its duty
9 shall be to meet at least quarterly and review all grant
10 applications received by the Department of Environmental
11 Resources under sections 7 and 9 and to recommend funding for
12 those applications determined by the board to satisfy the
13 criteria set forth in this act, after due consideration of the
14 department's assessment of whether applications are worthy of a
15 recommendation. Three members voting in the affirmative shall be
16 required for the board to recommend funding of any approved
17 applications.

18 Section 6. River conservation plans.

19 (a) Purpose of river conservation planning.--The purpose of
20 river conservation planning is to:

21 (1) Identify significant environmental, recreational,
22 economic, cultural and aesthetic resources and values of a
23 river.

24 (2) Identify the potential threats to these significant
25 river resources and values.

26 (3) Recommend policies and actions that can be
27 undertaken in the watershed to conserve, ~~maintain~~ RESTORE <—
28 and/or enhance these river resources and values.

29 (4) Provide the necessary information for inclusion on
30 the Pennsylvania Rivers Conservation Registry.

(b) Contents of river conservation plan.--A river conservation plan shall include sufficient information to adequately evaluate the river's resources and values and, at a minimum, shall include:

(1) Seven and one-half minute United States Geological Survey topographic maps defining the area addressed by the plan.

(2) Zoning and public land-use patterns within the area addressed by the plan.

(3) An inventory of natural and cultural resources, including, but not limited to, topography, geology, soils, flora, fauna, historic, cultural, recreation-open space, greenways, fisheries and water quality.

(4) An analysis of the inventory of natural and cultural resources, including a characterization of significant or unique natural and cultural resources.

(5) Identification of the issues, concerns, opportunities and potential threats to the river's natural and cultural resources.

(6) Recommendations to address the issues, concerns, opportunities and threats to the river's resources, INCLUDING, BUT NOT LIMITED TO, FLOODING.

(7) Other criteria deemed appropriate by the Department of Environmental Resources.

Section 7. River conservation planning grants.

(a) General rule.--~~Upon~~ EXCEPT AS PROVIDED IN SUBSECTION (C), UPON the recommendation of the Rivers Conservation Board, the Department of Environmental Resources shall award grants to municipalities ~~or local~~, MUNICIPAL AUTHORITIES, COUNTIES OR DESIGNATED river support groups, ~~or both~~, for the purpose of

1 preparing river conservation plans.

2 (b) River conservation planning grant application.--

3 Municipalities, MUNICIPAL AUTHORITIES, COUNTIES and river <—

4 support groups may make grant applications to the department.

5 The department shall forward such applications to the board,

6 accompanied by its assessment of whether the grant application

7 satisfies the criteria set forth in this act and any procedures

8 adopted hereunder by the department. Priority for funding shall

9 be given to river conservation planning grant applications that:

10 (1) Identify and document existing conditions, FLOODING <—

11 or activities that have a detrimental effect on the quality

12 of the river.

13 (2) Demonstrate the need to conserve, ~~maintain~~ RESTORE <—

14 or enhance the present quality of a river through the

15 development of a rivers conservation plan to guide river

16 conservation initiatives, WITH GREATER WEIGHT AFFORDED THOSE <—

17 APPLICATIONS WHICH PROPOSE A COMPREHENSIVE WATERSHED

18 APPROACH.

19 (3) Identify the expected environmental and economic

20 benefits to be gained from implementation of the planning

21 grant.

22 (4) Involve two or more municipalities to jointly

23 address the need to conserve, ~~maintain~~ RESTORE or enhance a <—

24 river.

25 (5) Are supported by a resolution for the planning grant

26 by ~~the municipalities~~ AT LEAST ONE MUNICIPALITY included in <—

27 the proposed study area, WITH GREATER WEIGHT AFFORDED THOSE <—

28 APPLICATIONS ACCOMPANIED BY RESOLUTIONS FROM THE GREATEST

29 PERCENTAGE OF AFFECTED MUNICIPALITIES.

30 (6) Are supported by a resolution, petition or other

evidence for the planning grant by river support groups,
other organizations, businesses or the general public,
including individuals within the proposed study area.

(7) Include a public notice in a locally circulated
newspaper or other newspapers of general circulation in the
proposed study area regarding the intent of the applicant to
submit a river conservation planning grant application to the
department for funding.

(8) Address other criteria deemed appropriate by the
department.

(C) LIMITATION ON AWARDING OF GRANTS.--NO GRANT SHALL BE
AWARDED TO THE FOLLOWING:

(1) A MUNICIPAL AUTHORITY, UNLESS THE APPLICATION FOR
SAME IS ACCOMPANIED BY A SUPPORTING RESOLUTION ADOPTED BY THE
MUNICIPALITY WHICH CREATED THE AUTHORITY, OR IN THE CASE OF
INTERMUNICIPAL AUTHORITIES, A SUPPORTING RESOLUTION ADOPTED
BY AT LEAST ONE OF THE MUNICIPALITIES CREATING THE AUTHORITY.

(2) A COUNTY, UNLESS THE APPLICATION FOR SAME IS
ACCOMPANIED BY A SUPPORTING RESOLUTION ADOPTED BY AT LEAST
ONE MUNICIPALITY IN THE COUNTY.

(3) A RIVER SUPPORT GROUP, UNLESS THE APPLICATION FOR
SAME IS ACCOMPANIED BY A RESOLUTION OF A MUNICIPALITY
DESIGNATING THE GROUP TO MAKE SUCH APPLICATION ON ITS BEHALF.

Section 8. Pennsylvania Rivers Conservation Registry.

(a) Registry purpose.--The Pennsylvania Rivers Conservation
Registry is a list of the rivers that have met the requirements
of subsection (b). The registry shall promote the conservation
of rivers and river values, officially recognize community plans
for conserving rivers and river values and facilitate consistent
State action with local river conservation plans.

(b) Eligibility.--To be eligible for inclusion on the registry:

(1) The Department of Environmental Resources must determine that a river conservation plan meeting the requirements defined in section 7(2) has been developed for the river.

(2) A municipality or river support group must demonstrate to the department that at least one public hearing was held ~~in the affected municipalities~~ within the planning area offering interested individuals or organizations the opportunity to review and comment on the plan.

(3) A municipality or river support group must provide evidence to the department of a resolution supporting the river conservation plan and registry designation from at least one of the affected municipalities.

(4) A municipality or river support group may be required to provide other documentation or material deemed appropriate by the department.

Section 9. River conservation implementation grants.

(a) General rule.--Upon the recommendation of the Rivers Conservation Board, the Department of Environmental Resources will award grants to municipalities and/or local river support groups for river conservation activities that implement the objectives or recommendations in approved river conservation plans for rivers listed on the Pennsylvania Rivers Conservation Registry. River conservation activities may include, but shall not be limited to, stream improvements, public access projects, FLOOD PROTECTION PROJECTS, FLOOD CONTROL PROJECTS, greenway/greenbelt development, development and implementation

1 of local ordinances, recreation development projects, litter and
2 debris cleanup projects, water quality monitoring and the
3 purchase of easements.

4 (b) Eligibility.--To be eligible for a river conservation
5 implementation grant, the river must be listed on the registry,
6 the grant application must include a resolution from the
7 affected municipality approving the river conservation plan and
8 it shall have been recommended for funding by the board.

9 (c) Priority.--Priority shall be given to the river
10 conservation implementation grant applications that:

11 (1) Document an urgent need to take action to conserve,
12 ~~maintain~~ RESTORE or enhance the river resources and values <—
13 from imminent threat, INCLUDING, BUT NOT LIMITED TO, THE <—
14 THREAT OF FLOODING.

15 (2) Document a need to enhance the river resource for
16 its environmental, economic, industrial, aesthetic, scenic,
17 aquatic habitat or recreational values.

18 (3) Implement river-related environmental education
19 activities.

20 (4) Involve two or more municipalities to jointly
21 address a demonstrated need to conserve, ~~maintain~~ RESTORE or <—
22 enhance a river.

23 (5) RELATE TO A RIVER CONSERVATION PLAN WHICH TAKES A <—
24 WATERSHED APPROACH TO THE RIVER RESOURCE.

25 ~~(5)~~ (6) Address other criteria deemed appropriate by the <—
26 department.

27 Section 10. Technical assistance.

28 The Department of Environmental Resources shall establish a
29 technical assistance program to assist municipalities and river
30 support groups with conservation activities and to act as a

1 clearinghouse for river conservation information and shall
2 prepare and distribute newsletters, publications, booklets, fact
3 sheets and other materials regarding river conservation.

4 Section 11. Pennsylvania Scenic Rivers System.

5 Rivers designated by the General Assembly for inclusion in
6 the Pennsylvania Scenic Rivers System under the act of December
7 5, 1972 (P.L.1277, No.283), known as the Pennsylvania Scenic
8 Rivers Act, or designated in the Wild and Scenic Rivers Act
9 (Public Law 90-542, 16 U.S.C. § 1271 et seq.) are hereby
10 included on the Pennsylvania Rivers Conservation Registry and, <—
11 SUBJECT TO THE PROVISIONS OF SECTION 6(B), are immediately
12 eligible for river conservation implementation grants, ~~subject~~ <—
13 ~~to the provisions of section 8.~~

14 Section 12. Coordination with other State programs.

15 State agencies that administer grant programs that can be
16 utilized to carry out river conservation activities are
17 encouraged to give special consideration to the rivers listed on
18 the Pennsylvania Rivers Conservation Registry.

19 Section 13. Consistency reviews.

20 State agencies will coordinate with municipalities to ensure
21 that State actions are consistent to the extent feasible with
22 river conservation plans for rivers on the Pennsylvania Rivers
23 Conservation Registry. State agency consistency shall apply only
24 to municipalities that have approved a river conservation plan
25 through a resolution. For purposes of this section, approval of
26 a river conservation plan and inclusion of the river on the
27 registry shall neither expand nor restrict the existing legal
28 authority under which such State actions are taken.

29 Section 14. Funding limitations and cost sharing.

30 ~~Funds~~ (A) GENERAL LIMITATIONS.--EXCEPT AS PROVIDED IN <—

1 SUBSECTION (B), FUNDS approved by the Department of
2 Environmental Resources for planning or implementation grants
3 under this act may not exceed 50% of the approved project cost.
4 The grant recipient's 50% share of the approved project cost may
5 be provided through direct cost or in-kind services.

6 (B) FLOOD PROTECTION AND CONTROL.--FUNDS APPROVED BY THE <—
7 DEPARTMENT FOR PLANNING OR IMPLEMENTATION GRANTS TO BE USED FOR
8 FLOOD PROTECTION PROJECTS OR FLOOD CONTROL PROJECTS UNDER THIS
9 ACT SHALL NOT EXCEED 80% OF THE APPROVED PROJECT COST. A GRANT
10 RECIPIENT'S 20% SHARE OF APPROVED PROJECT COST MAY BE PROVIDED
11 THROUGH DIRECT COST OR IN-KIND SERVICES.

12 Section 15. Eligible use of funds.

13 Funds may be approved by the Department of Environmental
14 Resources for:

15 (1) Labor costs, including employer's share of
16 associated Social Security and payments to the Workers'
17 Compensation Fund and the Unemployment Compensation Fund for
18 grant recipient employees or persons hired by the
19 municipality or river support group who are directly
20 associated with the development of the river conservation
21 plan.

22 (2) Labor costs, including employer's share of
23 associated Social Security and payments to the Workers'
24 Compensation Fund and the Unemployment Compensation Fund for
25 grant recipient employees or persons hired by the
26 municipality or river support group employees to carry out
27 project activities directly associated with the
28 implementation grant project.

29 (3) Contracts for services to develop river conservation
30 plans.

(4) Contracts for services to carry out project activities directly associated with the river conservation implementation grant project.

(5) Costs of supplies and materials necessary to carry out river conservation planning and implementation grant projects.

Section 16. Ineligible use of funds.

Funds may not be approved by the Department of Environmental Resources for:

(1) Acquisition of lands in fee simple.

(2) Purchase of tools and equipment.

(3) Computer equipment, including hardware and software.

(4) Benefits, except those specified in section 15, of employees of the municipality or river support group associated with or hired under these grants.

Section 17. Funding.

This act will be funded from the Keystone Recreation, Park and Conservation Fund, as established in the act of July 2, 1993 (P.L.359, No.50), known as the Keystone Recreation, Park and Conservation Fund Act.

Section 18. Severability.

The provisions of this act are severable. If any provisions of this act or the application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Section 19. Repeals.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

1 Section 20. Effective date.

2 This act shall take effect immediately.