

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 834 Session of 2009

INTRODUCED BY HUTCHINSON, BAKER, BENNINGHOFF, CAUSER, CLYMER, CREIGHTON, ELLIS, FABRIZIO, FLECK, GEIST, GOODMAN, GROVE, HARHART, HARRIS, HENNESSEY, HESS, KAUFFMAN, MAJOR, METCALFE, MILLER, MOUL, MURT, OBERLANDER, PYLE, RAPP, REICHLEY, ROAE, ROHRER, SCAVELLO, STERN, STEVENSON, SWANGER AND VULAKOVICH, MARCH 10, 2009

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 10, 2009

AN ACT

1 Amending the act of June 28, 1995 (P.L.89, No.18), entitled "An
2 act creating the Department of Conservation and Natural
3 Resources consisting of certain functions of the Department
4 of Environmental Resources and the Department of Community
5 Affairs; renaming the Department of Environmental Resources
6 as the Department of Environmental Protection; defining the
7 role of the Environmental Quality Board in the Department of
8 Environmental Protection; making changes to responsibilities
9 of the State Conservation Commission and the Department of
10 Agriculture; transferring certain powers and duties to the
11 Department of Health; and repealing inconsistent acts," in
12 Department of Conservation and Natural Resources, further
13 providing for findings and statement of purpose, for forests
14 and for parks.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Sections 101, 302(a)(6) and (b)(3) and (11) and
18 303(a)(10) of the act of June 28, 1995 (P.L.89, No.18), known as
19 the Conservation and Natural Resources Act, are amended to read:
20 Section 101. Findings and statement of purpose.

21 (a) Findings.--The General Assembly finds and declares as

1 follows:

2 (1) Pennsylvania's public natural resources are to be
3 conserved and maintained for the use and benefit of all its
4 citizens as guaranteed by section 27 of Article I of the
5 Constitution of Pennsylvania.

6 (2) Pennsylvania's State forests and parks cover almost
7 2.3 million acres in this Commonwealth and contain some of
8 our State's most precious and rare natural areas.

9 (3) Pennsylvania has the third largest system of State
10 parks in the United States.

11 (4) Our State parks and forests and community recreation
12 and heritage conservation areas are critical to the continued
13 success of our tourism and recreation industry, the second
14 largest industry in the State.

15 (5) Our forest products industry employs over 100,000
16 people and contributes over \$4.5 billion a year to our
17 economy, making it the State's fourth largest industry.

18 (6) Preserving, enhancing, maintaining and actively
19 managing our system of State parks, forests, community
20 recreation and heritage conservation areas contributes
21 greatly to the quality of life of Pennsylvania's citizens and
22 the economic well-being of the State.

23 (7) The current structure of the Department of
24 Environmental Resources impedes the Secretary of
25 Environmental Resources from devoting enough time, energy and
26 money to solving the problems facing our State parks and
27 forests.

28 (8) State parks and forests have taken a back seat to
29 other environmental issues because polluted air and water and
30 toxic waste sites, for example, are more immediate, life-

1 threatening and publicly visible issues than natural resource
2 concerns.

3 (9) State parks, forests and community recreation and
4 heritage conservation areas have lost out in the competition
5 for financial and staff resources because they have no
6 cabinet-level advocate to highlight these issues for the
7 public.

8 (10) Income earned by the Commonwealth as royalties from
9 leasing development rights for natural gas reserves and land
10 rental payments from natural gas storage facilities
11 underlying State forest lands has paid for numerous
12 conservation, recreation, dam and flood control projects that
13 were not funded by appropriations from the General Fund. The
14 royalty and rental payments have also enabled the
15 Commonwealth to substantially improve public recreation
16 opportunities through the purchase of lands needed to create
17 eight State parks and to supplement and expand 31 existing
18 State parks.

19 (11) It is in the best interest of this Commonwealth to
20 encourage and promote the development of the rich endowment
21 of natural gas reserves underlying Pennsylvania's 2.3 million
22 acres of State forest lands to enhance Pennsylvania's energy
23 security, to curb carbon emissions, to meet the growing
24 demand for new electric generating capacity and to provide a
25 source of clean energy for residential and commercial heating
26 and as a fuel or feedstock for manufacturers.

27 (b) Intent.--It is the intent of the General Assembly and
28 the purpose of this act:

29 (1) To create a new Department of Conservation and
30 Natural Resources to serve as a cabinet-level advocate for

1 our State parks, forests, rivers, natural resources, trails,
2 greenways and community recreation and heritage conservation
3 programs to provide more focused management of the
4 Commonwealth's recreation, natural and river environments.
5 The primary mission of the Department of Conservation and
6 Natural Resources will be to maintain, improve and preserve
7 State parks, to manage State forest lands to assure their
8 long-term health, sustainability and economic use, to enhance
9 and facilitate the identification, development and delivery
10 to market of natural gas reserves underlying State forest
11 lands, to provide information on Pennsylvania's ecological
12 and geologic resources and to administer grant and technical
13 assistance programs that will benefit rivers conservation,
14 trails and greenways, local recreation, regional heritage
15 conservation and environmental education programs across
16 Pennsylvania.

17 (2) To change the name of the Department of
18 Environmental Resources to the Department of Environmental
19 Protection.

20 (3) To retain the rulemaking powers of the Environmental
21 Quality Board in relation to the Department of Environmental
22 Protection.

23 Section 302. Forests.

24 (a) Acquisition, establishment and disposition.--The
25 department has the following powers and duties with respect to
26 the acquisition, establishment and disposition of State forest
27 lands and certain other Commonwealth-owned resources:

28 * * *

29 (6) Whenever it shall appear that the welfare of this
30 Commonwealth, with reference to reforesting and the

1 betterment of the State forests, with respect to control,
2 scientific management, protection, utilization, development
3 and regulation of their occupancy and use, will be advanced
4 by selling or disposing of any of the timber on the State
5 forests, to dispose of timber on terms most advantageous to
6 this Commonwealth. The department is authorized and directed
7 to set aside, within the State forests, unusual or historical
8 groves of trees or natural features especially worthy of
9 permanent preservation, to make the same accessible and
10 convenient for public use and to dedicate them in perpetuity
11 to the citizens of this Commonwealth for their recreation and
12 enjoyment. The department is hereby empowered to make and
13 execute contracts or leases in the name of the Commonwealth
14 for the mining or removal of any valuable minerals that may
15 be found in State forests, or of oil and gas beneath those
16 waters of Lake Erie owned by the Commonwealth, or of oil and
17 gas beneath the land of Woodville State Hospital owned by the
18 Commonwealth, whenever it shall appear to the satisfaction of
19 the department that it would be for the best interests of
20 this Commonwealth to make such disposition of those minerals.
21 Any proposed contracts or leases of valuable minerals
22 exceeding \$1,000 in value shall have been advertised once a
23 week for three weeks, in at least two newspapers published
24 nearest the locality indicated, in advance of awarding such
25 contract or lease. The contracts or leases may then be
26 awarded to the highest and best bidder, who shall give bond
27 for the proper performance of the contract as the department
28 shall designate. The department shall conduct a competitive
29 public auction to lease State forest land for exploration and
30 development of natural gas reserves owned by the Commonwealth

1 whenever two or more bidders nominate overlapping or
2 contiguous State forest land acreage for lease. The
3 department shall conduct the public auction within six months
4 of the receipt of a second nomination for contiguous or
5 overlapping acreage. However, where the Commonwealth owns a
6 fractional interest in the oil, natural gas and other
7 minerals under State forest lands, the requirement of
8 competitive bidding or public auction may be waived, and the
9 department may enter into a contract to lease that fractional
10 interest, with the approval of the Governor, and upon such
11 terms and conditions as the department deems to be in the
12 best interest of this Commonwealth.

13 * * *

14 (b) Utilization and protection.--The department has the
15 following powers and duties with respect to the utilization and
16 protection of State forest lands:

17 * * *

18 (3) To grant rights-of-way through State forests to
19 individuals or corporations who may apply therefor when it
20 shall appear to the department that the grant of a right-of-
21 way will not so adversely affect the land as to interfere
22 with its usual and orderly administration, and when it shall
23 appear that the interests of the Commonwealth or its citizens
24 will be promoted by such grant. The department shall grant
25 rights-of-way as needed to facilitate the gathering and
26 delivery to market of natural gas produced from State forest
27 lands or from adjacent or contiguous public or private lands.
28 Right-of-way, as used in this subsection, is hereby construed
29 to include rights of passage and haulage for any lawful
30 purpose, also rights of flowage or transmission for any

1 lawful purpose.

2 * * *

3 (11) To lease, with the approval of the Governor, and in
4 cooperation with the Department of [Commerce] Community and
5 Economic Development, those State forest lands acquired by
6 gift from Pennsylvania State University or by acquisition
7 from the Curtiss-Wright Corporation which are located at
8 Quehanna, Pennsylvania, or recovered through the termination
9 of a lease with Curtiss-Wright Corporation relating to
10 Quehanna, Pennsylvania, and upon which are erected certain
11 industrial buildings constructed by the Curtiss-Wright
12 Corporation for industrial or economic development purposes
13 or for nuclear reactor safety zone purposes. Such leases may
14 be made with industrial tenants or nonprofit industrial
15 development corporations. The department in securing tenants
16 shall cooperate fully with the Department of [Commerce]
17 Community and Economic Development. Every such lease entered
18 into shall conform in general to the terms of the standard
19 industrial lease used by the department and approved by the
20 General Counsel and the Attorney General. Every such lease
21 shall otherwise than as in this act prescribed be upon such
22 terms and conditions as the secretary considers in the best
23 interests of this Commonwealth. However, all paved roads
24 through the Quehanna project shall remain open to the general
25 public use. Any such lease may permit the tenant to alter or
26 expand, at its own expense and with the approval of the
27 department first obtained in writing, existing buildings to
28 meet the requirements of its particular industrial operation.
29 Every such lease shall provide for the deposit of industrial
30 floor space rentals and sewage and water rentals in a

1 restricted revenue account from which the department may draw
2 moneys for use in developing, operating and maintaining the
3 water and sewage disposal facilities, and replacing
4 machinery, equipment and fixtures appurtenant thereto, at
5 aforesaid Quehanna. The restricted revenue account shall be
6 audited two years from the effective date of this act and at
7 two-year intervals thereafter, with any residue appearing in
8 the account at the end of each auditing period to be
9 deposited in the General Fund. The department is hereby
10 authorized to indemnify and hold harmless PermaGrain
11 Products, Inc., from and against any and all damages incurred
12 by PermaGrain Products, Inc., related to personal injury or
13 property damage, resulting from radioactive contamination
14 arising exclusively from performance by this Commonwealth or
15 its contractors of the characterization, remediation,
16 decontamination and removal of radioactive materials from
17 contaminated structures on those State forest lands acquired
18 from the Pennsylvania State University or Curtiss-Wright
19 Corporation and located at Quehanna, Pennsylvania.

20 * * *

21 Section 303. Parks.

22 (a) Powers and duties enumerated.--The department shall have
23 the following powers and duties with respect to parks:

24 * * *

25 (10) To grant rights-of-way in and through State parks
26 to municipal authorities and political subdivisions of this
27 Commonwealth for the laying of water lines and of lines for
28 the transportation of sewage to sewage lines or sewage
29 treatment facilities on State park land under such terms and
30 conditions, including the payment of fees, as the department

1 may deem proper and when it shall appear that the grant of
2 such right-of-way will not so adversely affect the land as to
3 interfere with its usual and orderly administration and that
4 the interests of this Commonwealth or its citizens will be
5 promoted by such grant. The department shall grant rights-of-
6 way in and through State parks as needed to facilitate the
7 gathering and delivery to market of natural gas produced from
8 State park lands or from adjacent or contiguous public or
9 private lands.

10 * * *

11 Section 2. This act shall take effect immediately.