

CONSERVATION DISTRICT LAW

Act of May. 15, 1945, P.L. 547, No. 217

Cl. 03

(Act reenacted and amended Dec. 19, 1984, P.L.1125,
No.221)

AN ACT

Relating to the conservation of soil, water and related natural resources and land use practices contributing to soil wastage and soil erosion; providing for the organization of the various counties into conservation districts; the appointment of their officers and employes; and prescribing their powers and duties; creating the State Conservation Commission in the Department of Environmental Resources and fixing its powers and duties relative to the administration of this act; providing financial and legal assistance to such conservation districts and the commission; and authorizing county governing bodies to make appropriations thereto; providing for disposition and operation of existing districts; and repealing existing laws. (Title amended Dec. 19, 1984, P.L.1125, No.221)

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in it, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in Act 217 of 1945.

TABLE OF CONTENTS

Section 1.	Short Title.
Section 2.	Declaration of Policy.
Section 3.	Definitions.
Section 4.	State Conservation Commission.
Section 5.	Creation of Conservation Districts.
Section 6.	Designation of District Directors.
Section 7.	Appointment; Qualifications; Compensation; and Tenure of Directors.
Section 8.	Organization of Directors.
Section 9.	Powers of Districts and Directors.
Section 10.	Cooperation between Districts.
Section 11.	Commonwealth Agencies to Cooperate.
Section 12.	Discontinuance of Districts.
Section 13.	County Governing Body's Appropriations.
Section 14.	Funding.
Section 15.	Acts Repealed.
Section 16.	Contracts to Remain in Force.
Section 17.	Effective Date.

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

Section 1. Short Title.--This act shall be known and cited as the "Conservation District Law."

Section 2. Declaration of Policy.--It is hereby declared to be the policy of the Commonwealth:

(1) To provide for the conservation of the soil, water and related resources of this Commonwealth, and for the control and

prevention of soil erosion, and thereby to preserve natural resources; assist in the control of floods; assist in developing and implementing plans for storm water management; prevent impairment of dams and reservoirs; assist in maintaining the navigability of rivers and harbors; protect air quality; preserve wildlife; preserve the tax base; protect public lands; and protect and promote the health, safety and general welfare of the people of the Commonwealth.

(2) To designate conservation districts as a primary local government unit responsible for the conservation of natural resources in this Commonwealth and to be responsible for implementing programs, projects and activities to quantify, prevent and control nonpoint sources of pollution.

(3) To authorize and encourage conservation districts to work in close cooperation with landowners and occupiers, agencies of Federal and State Government, other local and county government units and other entities identified and approved by the commission for the purposes of effectuating programs and policies under this act.

(2 amended July 9, 2008, P.L.986, No.75)

Section 3. Definitions.--Wherever used or referred to in this act unless a different meaning clearly appears from the context:

(a) "Commonwealth" means the Commonwealth of Pennsylvania.

(b) "Agency of this Commonwealth" includes the government of this Commonwealth and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this Commonwealth.

(c) "District" or "conservation district" means any county in the Commonwealth whose county governing body has, by resolution, declared said county to be a conservation district.

(d) "County governing body" means the board of county commissioners or that body that has responsibility or authority relating to the conservation district.

(e) "Directors" or "Board of directors" means the governing body of a conservation district appointed under the provision of this act.

(f) "Commission" means the State Conservation Commission created by this act.

(g) "United States" or "Agency of the United States" includes the United States Department of Agriculture and any other agency or instrumentality, corporate or otherwise, of the government of the United States of America.

(h) "Government" or "governmental" includes the government of this Commonwealth and the government of the United States.

(i) "Land occupier" or "occupier of land" includes any person, firm or corporation who shall hold title to, or shall be in possession of, any lands lying within a conservation district, organized under the provisions of this act, whether as owner, lessee, renter, tenant or otherwise.

(j) "Cooperating organization" is any organization approved by the commission to assist in carrying out the provisions of this act.

(k) "Nominating organization" is any organization approved under section 4 for the purpose of nominating district directors.

(l) "County" includes cities of the first class.

(m) "Department" means the Department of Environmental Protection. ((m) amended July 9, 2008, P.L.986, No.75)

Section 4. State Conservation Commission.--(1) There is hereby created the State Conservation Commission, which shall be a departmental administrative commission under the concurrent

authority of the department and the Department of Agriculture, with all the powers and duties generally vested in, and imposed upon, such commissions by the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(a) The commission shall be administratively housed within the Department of Agriculture and shall be staffed and supported by both the department and the Department of Agriculture.

(b) In order for the commission to fulfill its duties and responsibilities and exercise its authority under this and other acts, an agreement shall be executed between the Department of Agriculture, the department and the commission which specifically defines and delineates the role and responsibility of each agency in assisting the commission in fulfilling its duties.

(c) In order for the commission to fulfill its duties and responsibilities and exercise its authority under this and other acts, the commission, the department and the Department of Agriculture:

(i) May establish joint offices in order to facilitate cooperation and coordination of work and to eliminate overlapping functions.

(ii) Shall cooperate with each other in the use of employes, land, buildings, quarters, facilities and equipment.

(iii) Shall establish a single point of contact for the support, funding, administration and oversight of conservation districts, directors and staff and other cooperating organizations and individuals.

(d) Upon request of the commission, for the purpose of carrying out any of its functions, any agency of the Commonwealth and The Pennsylvania State University may assign or detail members of their staff or personnel to the commission to provide services and support and may make such special reports, surveys or studies as the commission may request.

(e) The commission shall consist of the Secretary of Environmental Protection or a designee, the Secretary of Agriculture of Pennsylvania or a designee, the Dean of the College of Agriculture of The Pennsylvania State University and four farmer members, who shall be farmers, to be appointed by the Governor with the advice and consent of a majority of the members elected to the Senate. In appointing farmer members, the Governor shall consider nominees submitted by the associations known as the "Pennsylvania State Council of Farm Organizations," and the "Pennsylvania Association of Conservation Districts, Inc.," or their successor organizations. Each association shall nominate one candidate for each farmer member vacancy. Two public members who shall not be farmers shall also be appointed to the commission by the Governor with the advice and consent of a majority of the members elected to the Senate. The State Conservationist of the Natural Resources Conservation Service of the United States Department of Agriculture, the Associate Director of the Cooperative Extension Service of The Pennsylvania State University, the President of the Pennsylvania Association of Conservation Districts, Inc., the Secretary of Conservation and Natural Resources or a designee and the Secretary of Community and Economic Development or a designee shall be associate, non-voting members of the commission.

(f) The commission may appoint other associate, non-voting members who may be selected and removed with a two-thirds vote of the voting members.

(g) The chairmanship of the commission shall rotate on an annual basis between the Secretary of Agriculture and the

Secretary of Environmental Protection with the Secretary of Agriculture chairing the first annual rotation beginning July 1, 2007.

(h) The commission shall keep a record of its official actions, and may perform such acts and promulgate such policies, procedures, performance standards, guidelines, rules and regulations as may be necessary.

(i) The commission by a majority of its voting members shall select and employ an independent executive secretary to serve and report to the commission. The executive secretary shall not be supervised by the Department of Agriculture, the department or any other voting member entity. The commission shall assign the executive secretary duties and responsibilities as required to fulfill its obligations under this and other acts.

(j) A majority of the voting members shall constitute a quorum and all decisions of the commission shall require a concurrence of the voting members of the commission.

(k) At the last regular meeting of the commission in the calendar year, a vice-chairperson shall be elected by the members of the commission and shall serve in that capacity for the ensuing year.

(l) The farmer and public members of the commission shall be appointed for a period of four years and shall hold office until their successors have been appointed and have qualified, but no longer than six months beyond the four-year period. The four farmer members' terms shall be so staggered that no more than one member's term shall expire each year while the two public members' terms shall be so staggered that no more than one member's term shall expire every second year. At the expiration of their terms of office or in the event of vacancies through death, resignation or otherwise, new farmer or public members shall be appointed to fill the unexpired terms of the members they are replacing. All farmer and public members of the commission shall be entitled to one hundred fifty dollars (\$150) per diem adjusted every four years for inflation plus reimbursement for reasonable traveling, lodging and other necessary expenses incurred in the discharge of their duties in accordance with Commonwealth regulations.

(m) The commission shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

(n) An appointed member of the commission who fails to attend three consecutive meetings without cause shall forfeit his seat unless the chairperson of the commission, upon written request from the member, finds that the member should be excused from a meeting. The Governor may also remove an appointed member of the commission for malfeasance or misfeasance.

(2) At the request of the commission, the Attorney General and/or Office of General Counsel of the Commonwealth will provide such services as the commission may require. With respect to any program delegated by any department of the Commonwealth to a conservation district pursuant to section 11(2), at the request of the commission, the Attorney General and/or Office of General Counsel will provide such services as the conservation district may require. With respect to the performance of any duties or functions delegated to a conservation district by any department of the Commonwealth pursuant to section 11(2), the Commonwealth will defend and indemnify district directors, associate directors and district employes to the same extent as it defends and indemnifies Commonwealth employes, and such directors, associate directors

and employes shall have all immunities afforded by law to Commonwealth employes.

(3) The commission shall have authority to delegate to its chairperson, to one or more of its members, or to one or more agents or employes, such powers and duties as it may deem proper. Upon request of the commission, for the purpose of carrying out any of its functions, any agency of the Commonwealth and The Pennsylvania State University may assign or detail members of the staff or personnel to the commission, and may make such special reports, surveys or studies or provide services as the commission may request.

(4) (Deleted by amendment).

(5) In addition to the duties and powers herein conferred upon the commission, it shall have the following duties and powers:

(a) To offer such training, assistance and certification as may be appropriate to the directors, staff and volunteers of conservation districts;

(b) To keep the directors of each of the districts generally informed of activities and experience useful to other districts;

(c) To approve and coordinate the programs of the conservation districts or projects; to apportion among the several districts or to any agency of the Commonwealth, the United States or cooperating organizations any funds allotted from State, Federal or other sources; to be responsible for the expenditures of such funds by the districts; and to establish standards for conservation district audits;

(d) To secure the cooperation and assistance of any governmental agency and to be the agency through which government aid in land and water management and conservation of related resources can be extended to private lands;

(e) To disseminate information concerning the activities and programs of the conservation districts and to encourage the formation of such districts in areas where their organization is desirable;

(f) To accept contributions of money, services or materials to carry on land and water management and conservation of related resources under the provisions of this act;

(g) To designate the organizations within the county that may act in nominating persons for appointment as directors, as provided in section 6 of this act. Such designations may be changed from time to time as conditions may warrant;

(h) To approve applications for projects and recommend priorities for planning for watershed applications under the Watershed Protection and Flood Prevention Act, U. S. Public Law 566 of 1954, as amended;

(i) To approve applications for projects and recommend priorities for planning for applications under the Resource and Conservation and Development Program authorized by Public Law 87-703, the Food and Agriculture Act of 1962, as amended;

(j) To approve applications and recommend priorities for other Federal programs requiring State Conservation Commission participation;

(k) To provide assistance through conservation districts to environmental advisory councils created by municipalities pursuant to the act of December 21, 1973 (P.L.425, No.148), referred to as the Municipal Environmental Advisory Council Law;

(l) To approve the delegation of and contracting for certain functions and powers to districts and to monitor district activities in response to delegated functions and powers otherwise accepted by or contracted to districts;

(m) To review fees for services established by conservation districts for the purpose of determining if such fees are reasonable in relation to the scope of the service to be provided;

(n) To develop, implement and enforce programs which meet the purposes of this act, including nutrient management and odor management under 3 Pa.C.S. Ch. 5 (relating to nutrient management and odor management) and resource enhancement and protection tax credits under Article XVII-E of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

(6) The commission shall have the power to receive such funds as appropriated, given, granted or donated to it, or to the program provided for in this act by the Federal Government, the Commonwealth or any other governmental or private agency or person, and shall use such funds for the carrying out of the provisions of this act. The commission may allocate such funds, or parts thereof, to the conservation districts or to any agency of this Commonwealth, the United States, or cooperating organization. Funds so allocated shall be apportioned in an equitable and just manner at the discretion of the commission, but the decision of the commission shall be final.

(7) The commission shall have the power to administer grant, loan and tax credit programs for landowners to implement non-point source and other best management practices on their properties.

(4 amended July 9, 2008, P.L.986, No.75)

Compiler's Note: See section 503(d) of Act 18 of 1995 in the appendix to this act for special provisions relating to the modification of the powers and duties of the State Conservation Commission by Act 18 of 1995.

Compiler's Note: The State Conservation Commission is subject to periodic review under the act of Dec. 22, 1981, P.L.508, No.142, known as the Sunset Act, and will terminate on the date specified in that act unless reestablished or continued by the General Assembly. For the current status of the commission, see the appendix to this act.

Section 5. Creation of Conservation Districts.--(1) When the county governing body determines, in the manner hereinafter provided, that conservation of soil and water, and related resources and control and prevention of accelerated soil erosion are problems of public concern in the county, and that a substantial proportion of the land owners of the county favor such a resolution, it shall be lawful for the said county governing body, by a resolution adopted at any regular or special meeting, to declare the county to be a conservation district, for the purpose of effectuating the legislative policy announced in section 2. These determinations may be made through petitions, hearings, referenda or by any other means which the county governing body deems appropriate.

(2) Such a district, upon its creation, shall constitute a public body corporate and politic exercising public powers of the Commonwealth as an agency thereof.

(3) All soil conservation districts and soil and water conservation districts created in the past under the provisions of this act shall henceforth be named conservation districts.

(5 amended July 9, 2008, P.L.986, No.75)

Section 6. Designation of District Directors.--(1) When a county has been declared a conservation district, a board of directors, consisting of seven members, shall be appointed by the county governing body. This board of directors shall consist

of one member of the county governing body, not more than four or less than two farmers, and not less than two or more than four public members who shall not be farmers. The commission may waive the requirement for two farmer members in first, second and second class-A counties upon the request of the conservation district and the county governing body consistent with section 6(1) and approved by the commission. The total number of directors shall always be seven, unless the commission, upon request of the district and the county governing body, approves a lesser or greater number in unusual or extenuating circumstances but in no case shall the number be less than five nor more than nine. The composition of the board shall be determined by the county governing body and approved by the commission before such change shall become effective; the farmer and public members to be appointed shall be selected from a list containing at least one eligible nominee for each director to be appointed, and such list is to be composed of eligible nominations submitted in writing by a qualified officer of the organizations designated by the commission. Upon receipt of notice from the commission of the organizations to be entitled to make such nominations, and having secured nomination lists, the county governing body shall appoint the proper number of directors. The composition of the board shall be determined by the county governing body and approved by the commission before such change becomes effective.

(2) The district board may appoint associate directors without voting power.

(6 amended July 9, 2008, P.L.986, No.75)

Section 7. Appointment; Qualifications; Compensation; and Tenure of Directors.--(1) (a) The director appointed from the county governing body shall be appointed annually by the county governing body. A county governing body may require that a director of the conservation district be a resident of the county. The term of office for farmer and public directors will be four years, except that directors shall be appointed so that no more than three directors' terms shall expire in any one year, unless a conservation district board is comprised of more than seven directors as provided for in section 6. A director shall hold office until a successor has been appointed and has qualified but no longer than six months beyond the four-year period. Vacancies shall be filled for the unexpired terms.

(b) (i) Successors to fill full terms shall be appointed by the county governing body from a list containing at least one eligible nominee for each director to be appointed, and such list shall be composed of eligible nominations submitted in writing by a qualified officer of each of the organizations designated by the commission.

(ii) Successors to fill unexpired terms shall be appointed by the county governing body as in subparagraph (a) or from a list of the associate conservation district directors who have had two or more years of active service with that district and who meet the commission's eligibility criteria for the unexpired term. The names and contact information, including home addresses of all directors, shall be provided to the commission by the county governing body within thirty days of their appointment. The final list of nominations shall be placed on file by the county governing body and shall be open to public inspection. In filling unexpired terms, the county governing body may make appointments from any list prepared in the above manner that has been compiled within the twelve months preceding such appointments.

(2) The director appointed from the county governing body shall receive no additional compensation but shall receive traveling expenses as allowed as a member of the county governing body. The other members of the board of directors shall serve without pay, unless, at the district's request, the commission approves the district's request to pay directors for services rendered on specific projects at a rate approved by the commission. The directors may be paid a per diem and may be reimbursed for actual and necessary expenses incurred while engaged in the performance of their official duties, provided funds are made available by the county governing body or by the commission for such purpose, and under such terms and conditions as established by the commission.

(7 amended July 9, 2008, P.L.986, No.75)

Section 8. Organization of Directors.--(1) The board of directors of the district shall be the governing body thereof. At their first meeting in the calendar year they shall elect a chairperson and vice-chairperson and elect or appoint a secretary and/or treasurer who may or may not be a member of the board and such other officers as deemed necessary. A majority of the voting members shall constitute a quorum. The directors may delegate to their chairperson, or to one or more directors, such powers and duties as they shall deem proper. The directors shall furnish to the State Conservation Commission, upon request, copies of such rules, orders, contracts, forms and other documents they adopt or employ and such other information concerning their activities as the commission may require in the performance of its duties under this act.

(2) The board of directors shall provide for the execution of surety bonds for any members or employes who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; shall prepare and distribute annual reports and shall provide for an annual audit of the accounts of receipts and disbursements.

(3) The board of directors may invite the governing body of any political subdivision to designate a representative to advise and consult with the directors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such political subdivision.

(4) A director absent from regular district meeting three or more times during a year without due cause may be replaced by the county governing body.

(5) The county governing body may remove a district director from the district board for malfeasance or misfeasance. The commission shall establish guidelines, policies and procedures for the removal of a district director. ((5) added July 9, 2008, P.L.986, No.75)

Section 9. Powers of Districts and Directors.--The directors of a district shall have the following powers in addition to those granted in other sections of this act:

(1) To conduct surveys, investigations and research relating to the character of soil erosion and the preventive control measures needed and to publish the results of such surveys, investigation or research, and disseminate information concerning such preventive and control measures after securing approval from the commission and to provide notification and documentation to the commission to avoid duplication of existing work;

(2) To employ the necessary personnel to properly conduct the operations of the district and provide adequate and

necessary insurance coverage for directors and employes, and appropriate fringe benefits for employes, provided funds are available for such purposes;

(3) To carry out preventive and control measures within the district, including but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land and drainage operations on lands owned or controlled by this Commonwealth or any of its agencies with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the written consent of the owner and occupier of such lands or the necessary rights or interests in such lands;

(4) To cooperate or enter into agreements with, and to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district in carrying on erosion and sediment control and prevention operations and other best management practices, for effective conservation and utilization of the lands within the district, subject to such conditions as the directors may deem necessary to advance the purposes of this act: Provided, however, That such agreements are within the limits of available funds or within appropriations made available to it by law;

(5) To obtain options upon, and to acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property real or personal or right or interests therein; to maintain, administer and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; to sell, lease or otherwise dispose of any of its property or interests therein; and to borrow and invest money and to apply for, receive and use low-interest loans in furtherance of the purposes and the provisions of this act;

(6) To make available on such terms as it shall prescribe to land occupiers within the district, agricultural and engineering machinery and equipment; fertilizer, seeds and seedlings and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the effective conservation and utilization of soil resources; and for the prevention and control of soil erosion;

(7) To construct, improve and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

(8) To assist and advise owners and occupiers of land in developing and/or implementing plans for storm water management, water use, water management and water pollution control, soil erosion control and conservation of water and soil resources, including recommended engineering practices, cultivation methods, cropping programs, tillage practices and changes of land use;

(9) To assist and advise county and municipal governments in subdivision and land development reviews, developing and implementing storm water management plans and programs and in administering programs for flood control, flood plain management, water use, water management and water pollution control and other natural resource concerns;

(9.1) To engage in any of the following activities: wetland construction and maintenance; reclamation of mine lands; reclamation of soil erosion; water management; management of parks, trails and related facilities; management of forest lands and roads; road maintenance; odor management and air quality; development of alternative energy resources; or any other

natural resource program approved by the commission. Nothing in this subsection is intended to diminish, limit or interfere with the authority provided State agencies under other laws of this Commonwealth;

(10) To conduct educational programs relating to any natural resource program approved by the conservation district and to publish related educational materials;

(11) To accept, upon approval by the commission, any authority delegated by municipal or county governments, the Commonwealth or Federal Government;

(12) To sue and be sued in the name of the district; to have perpetual succession unless terminated as hereinafter provided; to make policies and procedures necessary or convenient to the exercise of its powers and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act to carry into effect its purposes and powers;

(13) (a) As a condition to extending any benefits under this act, or to the performance of work upon any lands not owned or controlled by the Commonwealth or any of its agencies, the board of directors may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the long term use of such lands as will tend to prevent or control accelerated erosion thereon.

(b) On lands owned or controlled by the Commonwealth or any of its agencies, the Commonwealth, at its sole discretion, may agree to fee schedules for work performed by the district for State-delegated program duties specifically related to earth disturbance, erosion and sediment control or stream encroachments.

(c) To enter into a contract or agreement with Federal, State, county and local Governments for payment for work performed or services rendered by the district consistent with this act.

(14) No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the Legislature shall specifically so state;

(15) To accept contributions of any character from any source whatsoever, but only by and with the consent and approval of the commission, unless the funding is from the Federal, State or local Government or unless specifically authorized so to do by this act;

(16) To sponsor projects under the Watershed Protection and Flood Prevention Act, U.S. Public Law 566 of 1954, as amended, and the Resource and Conservation and Development Program authorized by Public Law 87-703, the Food and Agriculture Act of 1962, as amended;

(17) To enter public or private property to make such inspections as are necessary to determine compliance with the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law"; the act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act," and any rules, regulations, permits or orders issued thereunder, to the extent that such inspection authority has been delegated to a district by the department;

(18) To establish a program of assistance to environmental advisory councils which may include, but not be limited to,

educational services, exchange of information or assignment of administrative and/or technical personnel; and

(19) No agent or employe of a conservation district or other Commonwealth agency or political subdivision engaged in the planning, design, construction or regulatory review of soil and water conservation projects and practices under the authority of this act, "The Clean Streams Law," or delegations pursuant to paragraph (2) of section 11 of this act shall be considered to be engaged in the practice of landscape architecture.

(9 amended July 9, 2008, P.L.986, No.75)

Section 10. Cooperation between Districts.--The directors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act and, upon approval of the county governing bodies and the State Conservation Commission, may create official special purpose or watershed organizations to solve specific problems of a multicounty or multistate nature.

Section 11. Commonwealth Agencies to Cooperate.--(1)

Agencies of this Commonwealth and agencies of any county or other governmental subdivision of the Commonwealth may cooperate with the directors of any districts organized hereunder in the effectuation of programs and operations undertaken by the board of directors under the provisions of this act.

(2) (a) In accordance with regulations adopted by the Environmental Quality Board, the department may, by agreement, delegate to a district one or more of its regulatory and enforcement functions, including, but not limited to, the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and the rules and regulations adopted thereunder; the act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act;" the act of October 4, 1978 (P.L.851, No.166), known as the "Flood Plain Management Act," and the rules and regulations adopted thereunder; the act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act," and the rules and regulations adopted thereunder; and the act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste Management Act," and the rules and regulations adopted thereunder.

(b) Any other State agency, in accordance with the regulations, guidelines or policies adopted by the agency may, by agreement, delegate to a district one or more of its regulator and enforcement functions.

(c) Any district acting pursuant to a delegation agreement shall have the same powers and duties otherwise vested in any delegating department or agency of this Commonwealth to implement these acts, to the extent delegated by the agreement. Any delegating department shall monitor and supervise the activities of each district conducted pursuant to a delegation agreement. Any person aggrieved by an action of a district pursuant to a delegation agreement may appeal such action pursuant to 2 Pa.C.S. § 105 (relating to local agency law), within thirty days following notice of such action.

(d) Prior to the commission's approval of any delegation agreement, any Commonwealth agency proposing a delegation agreement must provide the commission with the following:

(i) an analysis of funding sources for the proposed delegation agreement;

(ii) an estimation of the current and projected amount of funds or compensation to be provided for proposed delegation agreement;

(iii) any conditions, limitations or other factors that affect or potentially affect the proposed funding sources;
(iv) any additional resources outside of the proposed funding in support of the proposed delegation agreement; and
(v) a clear delineation of the duties, authorities, deliverables and tasks to be performed under the delegation agreement.

(3) (Deleted by amendment).

(11 amended July 9, 2008, P.L.986, No.75)

Section 12. Discontinuance of Districts.--(1) The county governing body of any county in which, by resolution, such county was declared to be a conservation district, may at any time after five years from the passage of said resolution and after determining that a substantial proportion of the land occupiers of the district so desire, and upon approval by the commission, repeal said resolution at a regular or special meeting of said county governing body. This determination may be made through hearings, petitions, referenda or any other means which the county governing body deems appropriate.

(2) Upon the repeal of the resolution which declared the county to be a conservation district, the directors may not enter into any more contracts or agreements on behalf of the district, and all rules and regulations theretofore adopted and in force within such district shall be of no further force and effect. Such district, however, shall continue for a period not to exceed four years for the purpose of fulfilling its contracts, discharging any existing obligations, collecting and distributing its assets and doing all other acts required to adjust and close out its affairs. ((2) amended July 9, 2008, P.L.986, No.75)

(3) Upon repeal by the county governing body of the resolution declaring the county to be a district, the directors shall, at public auction, dispose of all property belonging to the district as soon as said property is no longer needed by the district to fulfill any existing contracts, and shall forthwith pay over the proceeds of such sale, less the necessary costs of the sale, into the county treasury. The directors shall, at least ten days prior to holding such public auction, notify the commission of the property proposed to be sold thereat, and after such sale shall render to the county governing body and to the commission a report of such sale specifying the property sold, the amount received therefor and the disposition of the proceeds. Such report of the sale shall also be accompanied by a list of the remaining property of the district still undisposed of.

(4) Any property, real or personal, remaining unsold at the end of two years shall be taken over by the county governing body for proper disposition and the proceeds derived therefrom placed in the county treasury.

Section 13. County Governing Body's Appropriations.--The county governing bodies of the several counties of this Commonwealth are hereby authorized to appropriate annually out of the current revenues of the county, moneys to the conservation district, properly organized and functioning under the provisions of this act, and located within the county. The amount appropriated shall be determined as in the case of county appropriations, or appropriations of cities of the first class, as the case may be.

Section 14. Funding.--(a) The General Assembly of the Commonwealth shall appropriate from time to time as may be necessary, moneys out of the General Fund to administer the provisions of this act.

(b) There is created a special fund in the State Treasury to be known as the Conservation District Fund. State funds appropriated for assistance to local conservation districts shall be deposited in the fund. All money in the fund and the interest it accrues are appropriated to the commission for allocation to the conservation districts for activities necessary to meet the requirements of this act.

(c) The fund may be supplemented by moneys received from the following sources:

(1) State funds appropriated to conservation districts or the commission.

(2) Federal funds appropriated to conservation districts, the commission or other agencies of the Commonwealth.

(3) Programs delegated to or contracted to conservation districts by any agency of the Commonwealth.

(4) Proceeds from the sale of any bonds made available to the commission.

(5) Gifts and other contributions from public and private sources.

(6) Any fees collected by the commission.

(d) The commission shall have the duty and authority to do all of the following:

(1) Adopt criteria and procedures for the allocation of moneys in the fund.

(2) Create accounts within the fund for the purposes of providing funding for the programs authorized by this act.

(3) Provide for provisions to make advance payments and reimbursements to conservation districts for approved purposes.

(4) Make payments to conservation districts or any agency designated by the commission in accordance with the requirements of the agency from which the funds originated.

(e) Funds allocated to conservation districts shall be used for costs associated with implementing programs delegated or contracted by the Commonwealth, environmental education, programs to protect the environment approved by the commission or for activities necessary to meet the requirements of this act.

(f) For the purposes of this section, a conservation district shall be exempt from State contracting guidelines and eligible for advance funding.

(g) The fund shall not be subject to 42 Pa.C.S. Ch. 37 Subch. C (relating to judicial computer system).

(h) The money in the fund shall only be used for the purposes authorized by this act and shall not be transferred or diverted to any other purpose.

(14 amended July 7, 2006, P.L.1059, No.110)

Section 15. Acts Repealed.--The act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand seven hundred twenty-four), entitled "An act relating to soil conservation and soil erosion, and regulating land use practices contributing to soil wastage and soil erosion; providing for the organization of soil conservation districts, as governmental subdivisions of the Commonwealth, with powers of enacting ordinances and regulations for the prevention and control of soil erosion and the conservation of soil resources; prescribing the officers and employes thereof, and defining their powers and duties; creating the State Soil Conservation Board in the Department of Agriculture and imposing powers and prescribing duties thereon relative to the enforcement of this act; providing financial assistance to such soil conservation districts; prescribing penalties, and making an appropriation," as amended, is hereby repealed, except that

districts now chartered and operating under said acts, lying wholly in one county, may continue to operate thereunder with the State Soil Conservation Commission replacing the State Soil Conservation Board until the board of county commissioners, in the county in which such district is located, declare the county to be a soil conservation district at which time their affairs shall be closed out and all assets and records turned over to the board of directors of the newly declared district, or when a district now chartered and operating under said acts has boundaries which extend into two counties it may continue to operate thereunder with the State Soil Conservation Commission replacing the State Soil Conservation Board until the county commissioners, in the county in which the major part of such district is located, declare that county to be a soil conservation district, at which time the affairs of such district shall be closed out and all assets and records turned over to the board of directors of the newly declared district (in the case where a soil conservation district now organized shall comprise territory outside of the county containing its principal territory, the portion outside shall be administered by the board of directors of the newly formed district comprising the county where the principal territory is located until such time as the county where the outside portion is located shall constitute itself a soil conservation district under this act, whereupon the said outside portion shall become a part of the county district wherein it is geographically located) and in cases where the board or boards of county commissioners fails or fail to organize under this act, said district or districts may continue to function as heretofore under said acts.

Section 16. Contracts to Remain in Force.--Whenever any lands which constitute all or a part of a soil conservation district created pursuant to the act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand seven hundred twenty-four), and its amendments, become a part of a district created by resolution of the board of county commissioners, all contracts theretofore entered into to which the former district or supervisors thereof were parties, shall remain in force and effect for the period provided in such contracts, and the directors of the newly created district shall be substituted for the supervisors of the former district as party to those contracts relating to lands lying within the district of which they are directors.

The representative directors of the district created by the board of county commissioners shall be entitled to all the benefits and be subject to all liabilities under such contracts, and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, including the right to terminate such contracts by mutual consent or otherwise as the supervisors of the district created, pursuant to the act, approved the second day of July, one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand seven hundred twenty-four), and its amendments.

Section 17. Effective Date.--This act shall become effective immediately upon its final enactment.

APPENDIX

Supplementary Provisions of Amendatory Statutes

1986, APRIL 30, P.L.128, NO.39

Section 2. This act, with respect to the State Conservation Commission, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act, and the commission is hereby reestablished.

Compiler's Note: Act 39 amended sections 4, 6 and 7 of Act 217.

Section 3. The presently confirmed members of the State Conservation Commission as of the effective date of this act shall continue to serve as commission members until their present terms of office expire, provided that any present commission member whose term has expired on or before the effective date of this act shall serve until a successor has been appointed and qualified, but no longer than six months after the effective date of this act. Any person presently serving on the board of directors of a conservation district shall continue to serve as a board member until his present term of office expires.

Section 4. Each rule and regulation of the State Conservation Commission in effect on the effective date of this act and not inconsistent with this act shall remain in effect after such date until repealed or amended by the commission, provided that the commission shall immediately initiate the repeal or amendment of any rule or regulation which is inconsistent with the provisions of this act.

1995, JUNE 28, P.L.89, NO.18

Section 503. Continued authority of Department of Environmental Protection, State Conservation Commission and Department of Agriculture.

* * *

(d) State Conservation Commission.--The State Conservation Commission established under the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law, shall continue to have all the powers and duties assigned under that act and all the powers and duties assigned under the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, except as modified below. The following provisions are intended to modify the authority and responsibilities of the State Conservation Commission and the Department of Environmental Protection and the Department of Agriculture:

(1) The chairmanship of the State Conservation Commission shall rotate on an annual basis between the Secretary of Agriculture and the Secretary of Environmental Protection with the Secretary of Agriculture chairing the State Conservation Commission for the first annual rotation beginning July 1, 1995.

(2) The State Conservation Commission by a majority vote shall select and employ an independent executive secretary to act as staff to the State Conservation Commission who is not supervised by either the Department of Environmental Protection or the Department of Agriculture. The State Conservation Commission is authorized to assign the executive secretary duties and responsibilities as required to fulfill its obligations under State law to

develop, implement and enforce conservation programs, including the Nutrient Management Act.

(3) To enhance the ability of the State Conservation Commission to accomplish its obligations, the Secretary of Agriculture shall designate an office and staff within that agency to coordinate and assist in the development, implementation and enforcement of programs adopted by the State Conservation Commission that solely affect production agriculture. The office and staff designated by the Secretary of Agriculture shall be an advocate for production agriculture in the development of programs by the State Conservation Commission, assist in developing methods of managing excess manure in an environmentally sound manner, develop programs to assist those engaged in production agriculture to comply with the Nutrient Management Act and act as an ombudsman to help resolve issues related to county conservation district implementation of State Conservation Commission programs solely affecting production agriculture.

(4) The Secretary of Environmental Protection shall designate an office and staff within the agency to coordinate and assist in the development, implementation and enforcement of programs adopted by the State Conservation Commission which are intended, in whole or in part, to protect surface or ground water.

(5) The State Conservation Commission shall be responsible for taking enforcement actions under the Nutrient Management Act. In the exercise of its enforcement authority, the State Conservation Commission shall be assisted by the staff of the Department of Environmental Protection for actions resulting in violations of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and shall be assisted by the Department of Agriculture for all other violations.

Compiler's Note: Act 18 of 1995 created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection.