

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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Session of
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INTRODUCED BY MESSRS. MORRIS, YAHNER, FRYER, ZELLER, SWEET,
WENGER, MRS. GEORGE, MESSRS. CALTAGIRONE, COLE, STUBAN,
WILT, STAIRS AND MADIGAN, MARCH 15, 1978

SENATOR MELLOW, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS
AMENDED, SEPTEMBER 19, 1978

AN ACT

1 Authorizing the creation of agricultural districts.

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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 "Agricultural
5 District Law."

6 Section 2. Statement of legislative findings.

7 It is the declared policy of the Commonwealth to conserve and
8 protect and to encourage the development and improvement of its
9 agricultural lands for the production of food and other
10 agricultural products. It is also the declared policy of the
11 Commonwealth to conserve and protect agricultural lands as
12 valued natural and ecological resources which provide needed
13 open spaces for clean air sheds, as well as for aesthetic
14 purposes. Article VIII, section 2 of the Constitution of
15 Pennsylvania provides that the General Assembly may, by law,
16 establish standards and qualifications for agricultural
17 reserves. Agriculture in many parts of the Commonwealth is under
18 urban pressure from expanding metropolitan areas. This urban
19 pressure takes the form of scattered development in wide belts
20 around urban areas, and brings conflicting land uses into
21 juxtaposition, creates high costs for public services, and
22 stimulates land speculation. When this scattered development
23 extends into good farm areas, ordinances inhibiting farming tend
24 to follow, farm taxes rise, and hopes for speculative gains
25 discourage investments in farm improvements. Many of the
26 agricultural lands in the Commonwealth are in jeopardy of being
27 lost for any agricultural purposes. Certain of these lands
28 constitute unique and irreplaceable land resources of Statewide
29 importance. It is the purpose of this act to provide a means by
30 which agricultural land may be protected and enhanced as a

1 viable segment of the Commonwealth's economy and as an economic
2 and environmental resource of major importance.

3 Section 3. Definitions.

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

7 "Agricultural production." The production for commercial
8 purposes of crops, livestock and livestock products, but not
9 land or portions thereof used for processing or retail
10 merchandising of such crops, livestock or livestock products.

11 "Advisory committee." An agricultural district advisory
12 committee.

13 "County commissioners." Includes the city council of a city
14 of the first class.

15 "Crops, livestock and livestock products." Include but are
16 not limited to:

17 (1) Field crops, including corn, wheat, oats, rye,
18 barley, hay, potatoes, dry beans.

19 (2) Fruits, including apples, peaches, grapes, cherries,
20 berries.

21 (3) Vegetables, including tomatoes, snap beans, cabbage,
22 carrots, beets, onions and mushrooms.

23 (4) Horticultural specialties, including nursery stock
24 ornamental shrubs, ornamental trees and flowers.

25 (5) Livestock and livestock products, including cattle,
26 sheep, hogs, goats, horses, poultry, furbearing animals,
27 milk, eggs and furs.

28 "Planning commission." A county planning commission.

29 "Viable agricultural land." Land suitable for agricultural
30 production and which will continue to be economically feasible

1 for such use if real estate taxes, farm use restrictions, and
2 speculative activities are limited to levels approximating those
3 in commercial agricultural areas not influenced by the proximity
4 of urban and related nonagricultural development.

5 Section 4. Agricultural district advisory committee.

6 The county commissioners of any county may establish an
7 agricultural district advisory committee which shall consist of
8 four active farmers and four agribusinessmen residing within the
9 county and one county commissioner, who shall serve as the
10 chairman of the committee. Such a committee shall be established
11 when a petition is received by the county commissioners for the
12 creation of an agricultural district. Pursuant to this act the
13 members of such committee shall be appointed by and shall serve
14 at the pleasure of the chairman of the county commissioners. The
15 members shall serve without salary, but the county commissioners
16 may entitle each such member to reimbursement for his actual and
17 necessary expenses incurred in the performance of his official
18 duties. Such committee shall advise the county commissioners and
19 work with the planning commission in relation to the proposed
20 establishment, modification, and termination of agricultural
21 districts. In particular, the committee shall render expert
22 advice relating to the desirability of such action, including
23 advice as to the nature of farming and farm resources within the
24 proposed area and the relation of farming in such area to the
25 county as a whole.

26 Section 5. Agricultural districts.

27 (a) Proposals for creation.--Any owner or owners of land may
28 submit a proposal to the county commissioners for the creation
29 of an agricultural district within such county, provided that
30 such owner or owners own at least 500 acres or at least 10% of

1 the land proposed to be included in the district, whichever is
2 greater. The proposed district may also consist of two or more
3 noncontiguous parcels or areas. Such proposal shall be submitted
4 in such manner and form as may be prescribed by the county
5 commissioners of the county wherein the proposed district is
6 situated and shall include a description of the proposed
7 district, including the boundaries thereof. If the proposed
8 district is situated in more than one county, the proposal shall
9 be submitted to the commissioners of all counties affected.

10 (b) Notice.--Upon the receipt of such a proposal, the county
11 commissioners shall thereupon provide notice of such proposal by
12 publishing a notice in a newspaper having general circulation
13 within the proposed district and by posting such notice in five
14 conspicuous places within, adjacent or near to the proposed
15 district. The notice shall contain the following information:

16 (1) A statement that a proposal for an agricultural
17 district has been filed with the county commissioners
18 pursuant to this act.

19 (2) A statement that the proposal will be on file open
20 to public inspection in the recorder of deeds office.

21 (3) A statement that any municipality whose territory
22 encompasses the proposed district, or any landowner who owns
23 at least 10% of the land proposed to be included within the
24 proposed district, or any landowner with lands adjacent or
25 near to the proposed district who wishes such lands to be
26 included therein, may propose modifications of the proposed
27 district in such form and manner as may be prescribed by the
28 county commissioners.

29 (4) A statement that any proposed modification must be
30 filed with the recorder of deeds, the planning commission and

1 the clerk of the county commissioners within 30 days after
2 the publication of such notice.

3 (5) A statement that at the termination of the 30-day
4 period, the proposal and proposed modifications will be
5 submitted to the planning commission and the advisory
6 committee, and that thereafter a public hearing will be held
7 on the proposal, proposed modifications and recommendations
8 of the planning commission and advisory committee.

9 (c) Modification proposals.--The county commissioners shall
10 receive any proposals for modifications of such proposal which
11 may be submitted by such landowners or municipalities within 30
12 days after the publication of such notice.

13 (d) Report by planning commission.--The county commissioners
14 shall, upon the termination of such 30-day period, refer such
15 proposal and proposed modifications to the planning commission,
16 which shall, within 45 days, report to the county commissioners
17 the potential effect of such proposal and proposed modifications
18 upon the county's planning policies and objectives.

19 (e) Referral to advisory committee.--The county
20 commissioners shall also, upon the termination of such 30-day
21 period, refer such proposal and proposed modifications to the
22 agricultural district advisory committee, which shall, within 45
23 days report to the county commissioners its recommendations
24 concerning the proposal and proposed modifications.

25 Section 6. Public hearings.

26 (a) Hearings.--The county commissioners, shall upon receipt
27 of the reports from the advisory committee and the planning
28 commission, hold a public hearing relative to the proposed
29 agricultural district.

30 (b) Place of hearing.--The hearing shall be held at a place

1 within the proposed district or otherwise readily accessible to
2 the proposed district.

3 (c) Notice of hearing.--A hearing notice shall be published
4 in a newspaper having a general circulation within the proposed
5 district and shall be given in writing to those municipalities
6 whose territory encompasses the proposed district and any
7 proposed modifications, and by posting such notice in five
8 conspicuous places within, adjacent or near to the proposed
9 district. Such notice shall contain the following information:

10 (1) A statement of the time, date and place of the
11 public hearing.

12 (2) A description of the proposed district, any proposed
13 additions or deletions and any recommendations of the
14 planning commission or advisory committee.

15 (3) A statement that the public hearing will be held
16 concerning:

17 (i) The original proposal.

18 (ii) Any written amendments proposed during the 30-
19 day review period.

20 (iii) Any recommendations proposed by the
21 agricultural districting advisory committee and the
22 planning commission.

23 Section 7. Evaluation criteria.

24 (a) Factors to be considered.--The following factors shall
25 be considered by the planning commission, advisory committee,
26 and at any public hearing:

27 (1) The viability of active farming within the proposed
28 district and in areas near or adjacent thereto.

29 (2) The presence of any viable farm lands within the
30 proposed district and adjacent thereto that are not now in

1 active farming.

2 (3) The nature and extent of land uses other than active
3 farming within the proposed district and near or adjacent
4 thereto.

5 (4) County developmental patterns and needs.

6 (5) Any other matter which may be relevant.

7 (b) Other factors.--In judging viability the following
8 factors shall be considered:

9 (1) Soil.

10 (2) Climate.

11 (3) Topography.

12 (4) Markets for farm products.

13 (5) The extent and nature of farm improvements.

14 (6) The present status of farming.

15 (7) Anticipated trends in agricultural economic
16 conditions and technology.

17 (8) Any other natural or economic factors as may be
18 relevant.

19 (c) Resource materials.--In considering the viability
20 factors as set forth in this section, various resource materials
21 shall be used, including, but not limited to, the following:

22 (1) Soil surveys of the Pennsylvania State University.

23 (2) Soil surveys and other information provided by the
24 National Cooperative Soil Survey.

25 (3) Soil survey maps prepared by the United States Soil
26 Conservation Service.

27 (4) The United States census of agricultural categories
28 of land use classes.

29 (5) Agricultural viability maps prepared by the
30 Department of Agriculture.

1 (6) Any other relevant published data, maps, charts, or
2 results of soil or land use surveys made by any State or
3 Federal agency.

4 Section 8. Decision on proposed district.

5 (a) Action by county commissioners.--The county
6 commissioners, after receiving the reports of the planning
7 commission and the advisory committee, and after such public
8 hearing, may adopt as a plan the proposal or any modification of
9 the proposal they deem appropriate, including the inclusion, to
10 the extent feasible, of adjacent viable farm lands, and, the
11 exclusion, to the extent feasible, of nonviable farm land and
12 nonfarm land. The county commissioners shall act to adopt or
13 reject the proposal, or any modification of it, no later than
14 180 days from the date the proposal was originally submitted.

15 (b) Effective date of creation of district.--The proposed
16 district, shall become effective upon the adoption of same by
17 the county commissioners.

18 (c) Filing of district description.--Upon the creation of an
19 agricultural district, a description thereof shall be filed by
20 the county commissioners with the recorder of deeds and with the
21 planning commission.

22 Section 9. Review of district.

23 The county commissioners shall review any district created
24 under this section eight years after the date of its creation
25 and every eight years thereafter. In conducting such review, the
26 county commissioners shall ask for the recommendations of the
27 planning commission and the advisory committee, and shall, at
28 least 120 days prior to the end of the eighth year and not more
29 than 180 days prior to such date, hold a public hearing at a
30 place within the district or otherwise readily accessible to the

1 district upon notice in a newspaper having a general circulation
2 within the district by posting in five conspicuous places
3 within, adjacent or near the district and by individual notice,
4 in writing, to those municipalities whose territories encompass
5 the district and the person owning land within the district. The
6 county commissioners after receiving the reports of the planning
7 commission and the advisory committee and after the public
8 hearing, may terminate the district at the end of such eight-
9 year period by filing a notice of termination with the recorder
10 of deeds and with the planning commission or may modify the
11 district in the same manner as is provided in this act for the
12 creation of districts. If the county commissioners do not act,
13 or if a modification of a district is rejected, the district
14 shall continue as originally constituted.

15 Section 10. Appeals.

16 Any party in interest aggrieved by a decision or action of
17 the county commissioners relating to the creation, composition,
18 modification, rejection or termination of an agricultural
19 district may take an appeal to the court of common pleas, in the
20 manner provided by law within 30 days after such decision or
21 action.

22 Section 11. Limitation on local regulations.

23 No municipality or political subdivision shall exercise any
24 of its powers to enact local laws or ordinances within an
25 agricultural district in a manner which would unreasonably
26 restrict or regulate farm structures or farming practices in
27 contravention of the purposes of the act unless such
28 restrictions or regulations bear a direct relationship to the
29 public health or safety.

30 Section 12. Policy of Commonwealth agencies.

1 It shall be the policy of all Commonwealth agencies to
2 encourage the maintenance of viable farming in agricultural
3 districts and their administrative regulations and procedures
4 shall be modified to this end insofar as is consistent with the
5 promotion of public health and safety, with the provisions of
6 any Federal statutes, standards, criteria, rules, regulations,
7 or policies, and any other requirements of Federal agencies,
8 including provisions applicable only to obtaining Federal
9 grants, loans, or other funding.

10 Section 13. Limitation on exercise of eminent domain.

11 (a) Approval required for condemnation.--No agency of the
12 Commonwealth, political subdivision, authority, public utility
13 or other body having or exercising powers of eminent domain
14 shall condemn any land within any agricultural district for any
15 purpose unless prior approval has been obtained from each of the
16 following bodies: the governing bodies of the municipalities
17 encompassing the agricultural district, the county commissioners
18 and a committee made up of six members, consisting of the
19 Director of the Office of State Planning and Development, or his
20 designee, the Secretary of Agriculture, or his designee, the
21 Secretary of Environmental Resources, or his designee, the
22 Secretary of Transportation, or his designee, and two active
23 farmers appointed by the Governor, with the advise and consent
24 of a majority of the Senate, for a term of four years. THE
25 CONDEMNATION APPROVALS SPECIFIED BY THIS SUBSECTION SHALL NOT BE
26 REQUIRED FOR AN UNDERGROUND PUBLIC UTILITY FACILITY OR FOR ANY
27 PUBLIC UTILITY FACILITY THE NECESSITY FOR AND THE PROPRIETY AND
28 ENVIRONMENTAL EFFECTS OF WHICH HAS BEEN REVIEWED AND RATIFIED OR
29 APPROVED BY THE PENNSYLVANIA PUBLIC UTILITY COMMISSION.

30 (b) Notice.--Any condemnor wishing to condemn property the

1 approval for which is required under this section shall at least
2 30 days prior to taking such action notify each of the foregoing
3 bodies that such action is contemplated, and no such
4 condemnation shall be effective until 90 days following the
5 receipt of such notice.

6 (c) Review by committee.--Upon receipt of such notice the
7 committee provided for in this section shall review the proposed
8 condemnation to determine its effect upon the preservation and
9 enhancement of agriculture and agricultural resources within the
10 district and upon Commonwealth, county and municipal
11 environmental and comprehensive plans, policies and objectives.

12 (d) Public hearings.--Within such 90-day period the
13 committee shall hold a public hearing concerning the proposed
14 condemnation at a place within or otherwise readily accessible
15 to the district. Timely notice of such hearing shall be placed
16 in a newspaper having a general circulation within the district
17 and a written notice shall be posted at five conspicuous places
18 within or adjacent to the district. Individual written notice
19 shall also be given to the county and all municipalities
20 encompassing all or part of the district and to the proposed
21 condemnor.

22 (e) Findings and decisions of the committee.--The committee
23 shall render its findings and decisions on or before the
24 expiration such 90-day period and likewise within such period
25 shall report the same to the proposed condemnor, the counties
26 and municipalities affected and any party who shall file an
27 appearance at such hearing. If the committee finds that such
28 proposed condemnation might have an unreasonably adverse effect
29 upon the preservation and enhancement of agriculture or
30 municipal resources within the district or upon the

1 environmental and comprehensive plans of the county,
2 municipality and the Commonwealth or upon the goals, resources
3 plans, policies or objectives thereof, or that in any event
4 there is a reasonable or prudent alternative to such
5 condemnation, the committee shall refuse approval for such
6 condemnation.

7 (f) Injunctions.--The committee may request the Attorney
8 General to bring an action to enjoin any such condemnor from
9 violating any of the provisions of this section.

10 (g) Emergencies excepted.--This section shall not apply to
11 any emergency project which is immediately necessary for the
12 protection of life or property.

13 Section 14. Effective date.

14 This act shall take effect in 60 days.