

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1020** Session of
2007

INTRODUCED BY WONDERLING, BRUBAKER, WAUGH, O'PAKE, BOSCOLA,
PUNT, CORMAN, MADIGAN, MUSTO, EARLL, FERLO, BROWNE AND
FOLMER, JULY 3, 2007

SENATOR BRUBAKER, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED,
NOVEMBER 28, 2007

AN ACT

1 Amending the act of May 15, 1945 (P.L.547, No.217), entitled, as
2 amended, "An act relating to the conservation of soil, water
3 and related natural resources and land use practices
4 contributing to soil wastage and soil erosion; providing for
5 the organization of the various counties into conservation
6 districts; the appointment of their officers and employes;
7 and prescribing their powers and duties; creating the State
8 Conservation Commission in the Department of Environmental
9 Resources and fixing its powers and duties relative to the
10 administration of this act; providing financial and legal
11 assistance to such conservation districts and the commission;
12 and authorizing county governing bodies to make
13 appropriations thereto; providing for disposition and
14 operation of existing districts; and repealing existing
15 laws," further providing for declaration of policy, for the
16 State Conservation Commission, for creation of conservation
17 districts, for designation of district directors, for
18 appointment, qualifications, compensation and tenure of
19 directors, for organization of directors, for powers of
20 districts and directors, for Commonwealth agencies to
21 cooperate and for discontinuation of districts; and making a
22 repeal.

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

25 Section 1. Section 2 of the act of May 15, 1945 (P.L.547,
26 No.217), known as the Conservation District Law, reenacted and
27 amended December 19, 1984 (P.L.1125, No.221), is amended to

1 read:

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

4 (1) To provide for the conservation of the soil, water and
5 related resources of this Commonwealth, and for the control and
6 prevention of soil erosion, and thereby to preserve natural
7 resources; assist in the control of floods; assist in developing
8 and implementing plans for storm water management; prevent
9 impairment of dams and reservoirs; assist in maintaining the
10 navigability of rivers and harbors; protect air quality;
11 preserve wildlife; preserve the tax base; protect public lands;
12 and protect and promote the health, safety and general welfare
13 of the people of the Commonwealth.

14 (2) To designate conservation districts as ~~the~~ A primary ←
15 local government unit responsible for the conservation of
16 natural resources in this Commonwealth and to be responsible for
17 implementing programs, projects and activities to quantify,
18 prevent and control non-point sources of pollution.

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

25 Section 2. Section 3(m) of the act is amended to read:

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

29 * * *

30 (m) "Department" means the Department of Environmental

1 [Resources] Protection.

2 Section 3. Section 4 of the act, amended April 30, 1986
3 (P.L.128, No.39), is amended to read:

4 Section 4. State Conservation Commission.--(1) There is
5 hereby created [in the department] the State Conservation
6 Commission, which shall be a departmental administrative
7 commission under the concurrent authority of the department and
8 the Department of Agriculture, with all the powers and duties
9 generally vested in, and imposed upon, such commissions by the
10 act of April 9, 1929 (P.L.177, No.175), known as "The
11 Administrative Code of 1929."

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

15 (b) In order for the commission to fulfill its duties and
16 responsibilities and exercise its authority under this act AND <—
17 OTHER ACTS, an agreement shall be executed between the
18 Department of Agriculture, the department and the commission
19 which: <—

20 ~~(i) Specifically SPECIFICALLY defines and delineates the~~ <—
21 role and responsibility of each agency in assisting the
22 commission in fulfilling its duties.

23 ~~(ii) Identifies staff and other resources each agency shall~~ <—
24 assign to the commission to fulfill the responsibilities
25 identified in paragraph (i).

26 ~~(iii) Specifies the compensation, if any, the commission or~~
27 any local conservation district shall receive for performing
28 duties delegated to them by either agency.

29 (c) In order for the commission to fulfill its duties and
30 responsibilities and exercise its authority under this act AND <—

1 OTHER ACTS, the commission, the department and the Department of
2 Agriculture:

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

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

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

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

18 (e) The commission shall consist of the Secretary of
19 Environmental [Resources, who shall be the chairman,] Protection
20 or a designee, the Secretary of Agriculture of Pennsylvania or a
21 designee, the Dean of the College of Agriculture of The
22 Pennsylvania State University and four farmer members, who shall
23 be farmers, to be appointed by the Governor with the advice and
24 consent of a majority of the members elected to the Senate. In
25 appointing farmer members, the Governor shall consider nominees
26 submitted by the associations known as the "Pennsylvania State
27 Council of Farm Organizations," and the "Pennsylvania
28 Association of Conservation [District Directors, Inc.]"
29 Districts, Inc.," or their successor organizations. Each
30 association shall nominate one candidate for each farmer member

1 vacancy. Two public members who shall not be farmers shall also
2 be appointed to the commission by the Governor with the advice
3 and consent of a majority of the members elected to the Senate.
4 The State Conservationist of the [Soil Conservation Service,]
5 Natural Resources Conservation Service of the United States
6 Department of Agriculture [and], the Associate Director of the
7 Cooperative Extension Service of The Pennsylvania State
8 University, the President of the Pennsylvania Association of
9 Conservation Districts, Inc., the Secretary of Conservation and
10 Natural Resources or a designee and the Secretary of Community
11 and Economic Development or a designee shall be associate, non-
12 voting members of the commission.

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

16 (g) The chairmanship of the commission shall rotate on an
17 annual basis between the Secretary of Agriculture and the
18 Secretary of Environmental Protection with the Secretary of
19 Agriculture chairing the first annual rotation beginning July 1,
20 2007.

21 (h) The commission shall keep a record of its official
22 actions, and may perform such acts and promulgate such policies,
23 procedures, performance standards, guidelines, rules and
24 regulations as may be necessary. [The department shall assign
25 such personnel as needed for the execution of the commission's
26 function under this act.]

27 (i) The commission by a majority of its voting members shall
28 select and employ an independent executive secretary to serve
29 and report to the commission. The executive secretary shall not
30 be supervised by the Department of Agriculture, the department

1 or any other voting member entity. The commission shall assign
2 the executive secretary duties and responsibilities as required
3 to fulfill its obligations under this act AND OTHER ACTS. ←

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

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

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

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

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

7 (2) At the request of the [State Conservation Commission]
8 commission, the Attorney General and/or Office of General
9 Counsel of the Commonwealth will provide such services as the
10 [State Conservation Commission] commission may require. With
11 respect to any program delegated [by the department] by any
12 department of the Commonwealth to a conservation district
13 pursuant to section 11(2), at the request of the [State
14 Conservation Commission] commission, the Attorney General and/or
15 Office of General Counsel will provide such services as the
16 conservation district may require. With respect to the
17 performance of any duties or functions delegated to a
18 conservation district by [the] any department of the
19 Commonwealth pursuant to section 11(2), the Commonwealth will
20 defend and indemnify district directors [and], associate
21 directors and district employes to the same extent as it defends
22 and indemnifies Commonwealth employes, and such directors [and],
23 associate directors and employes shall have all immunities
24 afforded by law to Commonwealth employes.

25 (3) The commission shall have authority to delegate to its
26 chairperson, to one or more of its members, or to one or more
27 agents or employes, such powers and duties as it may deem
28 proper. Upon request of the commission, for the purpose of
29 carrying out any of its functions, any agency of the
30 Commonwealth and The Pennsylvania State University may assign or

1 detail members of the staff or personnel to the commission, and
2 may make such special reports, surveys or studies or provide
3 services as the commission may request.

4 [(4) The farmer and public members of the commission shall
5 be appointed for a period of four years and shall hold office
6 until their successors have been appointed and have qualified,
7 but no longer than six months beyond the four-year period. The
8 four farmer members' terms shall be so staggered that no more
9 than one member's term shall expire each year while the two
10 public members' terms shall be so staggered that no more than
11 one member's term shall expire every second year. At the
12 expiration of their terms of office, or in the event of
13 vacancies through death, resignation or otherwise, new farmer or
14 public members shall be appointed to fill the unexpired term of
15 the members they are replacing. A majority of the commission
16 shall constitute a quorum and all decisions shall require the
17 concurrence of a majority of the commission. All farmer and
18 public members of the commission shall be entitled to sixty
19 dollars (\$60) per diem plus reimbursement for reasonable
20 traveling, lodging and other necessary expenses incurred in the
21 discharge of their duties in accordance with Commonwealth
22 regulations. The commission shall provide for the execution of
23 surety bonds for all employes and officers who shall be
24 entrusted with funds or property of the commission and shall
25 provide for the keeping of a full and accurate record of all
26 proceedings and of all resolutions, regulations and orders
27 issued or adopted. A farmer or public member of the commission
28 who fails to attend three consecutive meetings shall forfeit his
29 seat unless the Secretary of Environmental Resources, upon
30 written request from the member, finds that the member should be

1 excused from a meeting because of illness or the death of a
2 family member.]

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

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

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

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

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

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

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

29 (g) To designate the organizations within the county that
30 may act in nominating persons for appointment as directors, as

1 provided in section 6 of this act. Such designations may be
2 changed from time to time as conditions may warrant;

3 (h) To approve applications for projects and recommend
4 priorities for planning for watershed applications under the
5 Watershed Protection and Flood Prevention Act, U. S. Public Law
6 566 of 1954, as amended;

7 (i) To approve applications for projects and recommend
8 priorities for planning for applications under the Resource and
9 Conservation and Development Program authorized by Public Law
10 87-703, the Food and Agriculture Act of 1962, as amended;

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

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

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

23 (M) TO REVIEW FEES FOR SERVICES ESTABLISHED BY CONSERVATION
24 DISTRICTS FOR THE PURPOSE OF DETERMINING IF SUCH FEES ARE
25 REASONABLE IN RELATION TO THE SCOPE OF THE SERVICE TO BE
26 PROVIDED;

27 (N) TO DEVELOP, IMPLEMENT AND ENFORCE PROGRAMS WHICH MEET
28 THE PURPOSES OF THIS ACT, INCLUDING NUTRIENT MANAGEMENT AND ODOR
29 MANAGEMENT UNDER 3 PA.C.S. CH. 5 (RELATING TO NUTRIENT
30 MANAGEMENT AND ODOR MANAGEMENT) AND RESOURCE ENHANCEMENT AND

1 PROTECTION TAX CREDITS UNDER ARTICLE XVII-E OF THE ACT OF MARCH
2 4, 1971 (P.L.6, NO.2), KNOWN AS THE "TAX REFORM CODE OF 1971."

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

14 (7) The commission shall have the power to administer grant <—
15 and loan programs GRANT, LOAN AND TAX CREDIT PROGRAMS for <—
16 landowners to implement non-point source AND OTHER best <—
17 management practices on their properties.

18 Section 4. Section 5 of the act is amended to read:

19 Section 5. Creation of Conservation Districts.--(1) When
20 the county governing body determines, in the manner hereinafter
21 provided, that conservation of soil and water, and related
22 resources and control and prevention of accelerated soil erosion
23 are problems of public concern in the county, and that a
24 substantial proportion of the [rural] land owners of the county
25 favor such a resolution, it shall be lawful for the said county
26 governing body, by a resolution adopted at any regular or
27 special meeting [of the board], to declare the county to be a
28 conservation district, for the purpose of effectuating the
29 legislative policy announced in section 2. These determinations
30 may be made through petitions, hearings, referenda or by any

1 other means which the county governing body deems appropriate.

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

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

8 Section 5. Sections 6 and 7 of the act, amended April 30,
9 1986 (P.L.128, No.39), are amended to read:

10 Section 6. Designation of District Directors.--(1) When a
11 county has been declared a conservation district, a board of
12 directors, consisting of seven members, shall be appointed by
13 the county governing body. This board of directors shall consist
14 of one member of the county governing body, not more than four
15 or less than two farmers, and not less than two or more than
16 four public members who shall not be farmers. The commission may
17 waive the requirement for two farmer members in first, second
18 and second class-A counties upon the request of the conservation
19 district and the county governing body consistent with section
20 6(1) and approved by the commission. The total number of
21 directors shall always be seven, unless the [State Conservation
22 Commission] commission, upon request of the district and the
23 county governing body, approves a lesser or greater number in
24 unusual or extenuating circumstances but in no case shall the
25 number be less than five nor more than nine. The composition of
26 the board shall be determined by the county governing body and
27 approved by the [State Conservation Commission] commission
28 before such change shall become effective; the farmer and public
29 members to be appointed shall be selected from a list containing
30 at least [double the number of directors] one eligible nominee

1 for each director to be appointed, and such list is to be
2 [submitted by each of the organizations within the county
3 designated by the State Conservation Commission.] composed of
4 eligible nominations submitted in writing by a qualified officer
5 of the organizations designated by the commission. Upon receipt
6 of notice from the [State Conservation Commission] commission of
7 the organizations to be entitled to make such nominations, and
8 having secured nomination lists, the county governing body shall
9 appoint the proper number of directors. The composition of the
10 board shall be determined by the county governing body and
11 approved by the commission before such change becomes effective.

12 (2) The district board may appoint associate directors
13 without voting power [to carry out the district's business at
14 the discretion of the district board].

15 Section 7. Appointment; Qualifications; Compensation; and
16 Tenure of Directors.--(1) The director appointed from the
17 county governing body shall be appointed annually by the county
18 governing body. A county governing body may require that a
19 director of the conservation district be a resident of the
20 county. The term of office for farmer and public directors will
21 be four years, except that directors shall be appointed so that
22 no more than three directors' terms shall expire in any one
23 year, unless a conservation district board is comprised of more
24 than seven directors as provided for in section 7. A director
25 shall hold office until a successor has been appointed and has
26 qualified. Vacancies shall be filled for the unexpired terms.
27 Successors to fill unexpired terms or for full terms shall be
28 appointed by the county governing body from a list containing at
29 least [double the number of directors] one eligible nominee for
30 each director to be appointed, and such list [to] shall be

1 composed of eligible nominations submitted in writing by a
2 qualified officer of each of the organizations designated by the
3 [State Conservation Commission.] commission. The names and
4 contact information, including home addresses of all directors,
5 shall be provided to the commission by the county governing body
6 within thirty days of their appointment. The final list of
7 nominations shall be placed on file by the county governing body
8 and shall be open to public inspection. In filling unexpired
9 terms, the county governing body may make appointments from any
10 list prepared in the above manner that has been compiled within
11 the twelve months preceding such appointments.

12 (2) The director appointed from the county governing body
13 shall receive no additional compensation but shall receive
14 traveling expenses as allowed as a member of the county
15 governing body. The other members of the board of directors
16 shall serve without pay, unless, at the district's request, the
17 [State Conservation Commission] commission approves the
18 district's request to pay directors for services rendered on
19 specific projects at a rate approved by the commission. The
20 directors may be paid a per diem and may be reimbursed for
21 actual and necessary expenses incurred while engaged in the
22 performance of their official duties, provided funds are made
23 available by the county governing body or by the [State
24 Conservation Commission] commission for such purpose, and under
25 such terms and conditions as [the county governing body or the
26 commission, whichever has provided the funds, shall determine]
27 established by the commission.

28 Section 6. Section 8 of the act is amended by adding a
29 paragraph to read:

30 Section 8. Organization of Directors.--* * *

1 (5) The county governing body may remove a district director
2 from the district board for malfeasance or misfeasance. The
3 commission shall establish guidelines, policies and procedures
4 for the removal of a district director.

5 Section 7. Sections 9, 11 and 12(2) of the act are amended
6 to read:

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

10 (1) To conduct surveys, investigations and research relating
11 to the character of soil erosion and the preventive control
12 measures needed and to publish the results of such surveys,
13 investigation or research, and disseminate information
14 concerning such preventive and control measures after securing
15 approval from the [State Conservation Commission: Provided,
16 however, That in order to avoid duplication of research
17 activities no district shall initiate any research program
18 except in cooperation with The Pennsylvania State University
19 College of Agriculture or any agency approved by the State
20 Conservation Commission;] commission and to provide notification
21 and documentation to the commission to avoid duplication of
22 existing work;

23 (2) To employ the necessary personnel to properly conduct
24 the operations of the district and provide adequate and
25 necessary insurance coverage for directors and employes, and
26 appropriate fringe benefits for employes, provided funds are
27 available for such purposes;

28 (3) To carry out preventive and control measures within the
29 district, including but not limited to, engineering operations,
30 methods of cultivation, the growing of vegetation, changes in

1 use of land and drainage operations on lands owned or controlled
2 by this Commonwealth or any of its agencies with the consent and
3 cooperation of the agency administering and having jurisdiction
4 thereof, and on any other lands within the district upon
5 obtaining the written consent of the owner and occupier of such
6 lands or the necessary rights or interests in such lands;

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

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

28 (6) To make available on such terms as it shall prescribe to
29 land occupiers within the district, agricultural and engineering
30 machinery and equipment; fertilizer, seeds and seedlings and

1 such other material or equipment as will assist such land
2 occupiers to carry on operations upon their lands for the
3 effective conservation and utilization of soil resources; and
4 for the prevention and control of soil erosion;

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

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

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

21 (9.1) To engage in any of the following activities: wetland
22 construction and maintenance; reclamation of mine lands;
23 reclamation of soil erosion; water management; management of
24 parks, trails and related facilities; management of forest lands
25 and roads; road maintenance; odor management and air quality;
26 development of alternative energy resources; or any other
27 natural resource program approved by the commission;

28 (10) To conduct educational programs relating to [soil and
29 water conservation] any natural resource program approved by the
30 conservation district and to publish related educational

1 materials [relating to soil and water conservation];

2 (11) To accept, upon approval by the [State Conservation
3 Commission] commission, any authority delegated by municipal or
4 county governments, the Commonwealth or Federal Government;

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

13 (13) As a condition to extending any benefits under this
14 act, or to the performance of work upon any lands [not owned or ←
15 controlled by the Commonwealth or any of its agencies], the ←
16 board of directors may require contributions in money, services,
17 materials or otherwise to any operations conferring such
18 benefits [and]. The conservation district may require land
19 occupiers to enter into and perform such agreements or covenants
20 as to the long term use of such lands as will tend to prevent or
21 control accelerated erosion thereon or to further any other
22 provision of this act. The district may contract with State and
23 local agencies for payment for services rendered;

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

28 (15) To accept contributions of any character from any
29 source whatsoever, but only by and with the consent and approval
30 of the [State Conservation Commission] commission, unless the

1 funding is from [other governmental agencies] the Federal, State
2 or local government or unless specifically authorized so to do
3 by this act;

4 (16) To sponsor projects under the Watershed Protection and
5 Flood Prevention Act, U.S. Public Law 566 of 1954, as amended,
6 and the Resource and Conservation and Development Program
7 authorized by Public Law 87-703, the Food and Agriculture Act of
8 1962, as amended;

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

17 (18) To establish a program of assistance to environmental
18 advisory councils which may include, but not be limited to,
19 educational services, exchange of information or assignment of
20 administrative and/or technical personnel; and

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

28 Section 11. Commonwealth Agencies to Cooperate.--(1)
29 Agencies of this Commonwealth [which have jurisdiction over or
30 are charged with the administration of Commonwealth highways, or

1 any Commonwealth-owned lands] and agencies of any county or
2 other governmental subdivision of the Commonwealth[, which have
3 jurisdiction over or are charged with the administration of any
4 county-owned or other publicly owned lands lying within the
5 boundaries of any district organized hereunder,] may cooperate
6 with the directors of [such districts] ANY DISTRICTS ORGANIZED ←
7 HEREUNDER in the effectuation of programs and operations
8 undertaken by the board of directors under the provisions of
9 this act.

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

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

29 (c) Any district acting pursuant to a delegation agreement
30 shall have the same powers and duties otherwise vested in [the]

1 any delegating department or agency of this Commonwealth to
2 implement these acts, to the extent delegated by the agreement.
3 [The] Any delegating department shall monitor and supervise the
4 activities of each district conducted pursuant to a delegation
5 agreement. Any person aggrieved by an action of a district
6 pursuant to a delegation agreement may appeal such action
7 pursuant to 2 Pa.C.S. § 105 (relating to local agency law),
8 within thirty days following notice of such action.

9 (D) ANY DELEGATION AGREEMENT ENTERED INTO BY A DISTRICT AND <—
10 ANY AGENCY OF THIS COMMONWEALTH UNDER THIS SUBSECTION AND
11 APPROVED BY THE COMMISSION UNDER SECTION 4(5) MUST INCLUDE ALL
12 OF THE FOLLOWING:

13 (I) A CLEAR DELINEATION OF THE DUTIES TO BE PERFORMED;

14 (II) A CLEAR DELINEATION OF THE AUTHORITIES UNDER WHICH THE
15 DUTIES WILL BE PERFORMED;

16 (III) AN ANALYSIS OF FUNDING SOURCES AVAILABLE;

17 (IV) AN ESTIMATION OF THE AMOUNT OF FUNDS OR COMPENSATION,
18 IF ANY, TO BE PROVIDED;

19 (V) ANY CONDITIONS, LIMITATIONS OR OTHER FACTORS THAT AFFECT
20 OR POTENTIALLY AFFECT THE PROPOSED FUNDING SOURCES;

21 (VI) ANY ADDITIONAL RESOURCES, SERVICES AND SUPPORT,
22 INCLUDING STAFF, THAT MAY BE PROVIDED TO THE CONSERVATION
23 DISTRICT.

24 AMENDMENTS TO THE DELEGATION AGREEMENT SHALL BE MADE IN WRITING
25 AND APPROVED BY THE COMMISSION.

26 [(3) The ~~delegating~~ department shall monitor and supervise <—
27 the activities of each district conducted pursuant to the
28 agreement.] <—

29 Section 12. Discontinuance of Districts.--* * *

30 (2) Upon the repeal of the resolution which declared the

1 county to be a conservation district, the directors may not
2 enter into any more contracts or agreements on behalf of the
3 district, and all rules and regulations theretofore adopted and
4 in force within such district shall be of no further force and
5 effect. Such district, however, shall continue for a period not
6 to exceed [two] four years for the purpose of fulfilling its
7 contracts, discharging any existing obligations, collecting and
8 distributing its assets and doing all other acts required to
9 adjust and close out its affairs.

10 * * *

11 Section 8. Repeals are as follows:

12 (1) The General Assembly declares that the repeal under
13 paragraph (2) is necessary to effectuate the amendment of
14 section 4 of the act.

15 (2) Section 503(d) of the act of June 28, 1995 (P.L.89,
16 No.18), known as the Conservation and Natural Resources Act,
17 is repealed.

18 Section 9. This act shall take effect in 60 days.