

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 ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,
MARCH 31, 2008

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 a primary local
15 government unit responsible for the conservation of natural
16 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 and other
17 acts, an agreement shall be executed between the Department of
18 Agriculture, the department and the commission which
19 specifically defines and delineates the role and responsibility
20 of each agency in assisting the commission in fulfilling its
21 duties.

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

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

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

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

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

11 (e) The commission shall consist of the Secretary of
12 Environmental [Resources, who shall be the chairman,] Protection
13 or a designee, the Secretary of Agriculture of Pennsylvania or a
14 designee, the Dean of the College of Agriculture of The
15 Pennsylvania State University and four farmer members, who shall
16 be farmers, to be appointed by the Governor with the advice and
17 consent of a majority of the members elected to the Senate. In
18 appointing farmer members, the Governor shall consider nominees
19 submitted by the associations known as the "Pennsylvania State
20 Council of Farm Organizations," and the "Pennsylvania
21 Association of Conservation [District Directors, Inc.]
22 Districts, Inc.," or their successor organizations. Each
23 association shall nominate one candidate for each farmer member
24 vacancy. Two public members who shall not be farmers shall also
25 be appointed to the commission by the Governor with the advice
26 and consent of a majority of the members elected to the Senate.
27 The State Conservationist of the [Soil Conservation Service,]
28 Natural Resources Conservation Service of the United States
29 Department of Agriculture [and], the Associate Director of the
30 Cooperative Extension Service of The Pennsylvania State

1 University, the President of the Pennsylvania Association of
2 Conservation Districts, Inc., the Secretary of Conservation and
3 Natural Resources or a designee and the Secretary of Community
4 and Economic Development or a designee shall be associate, non-
5 voting members of the commission.

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

9 (g) The chairmanship of the commission shall rotate on an
10 annual basis between the Secretary of Agriculture and the
11 Secretary of Environmental Protection with the Secretary of
12 Agriculture chairing the first annual rotation beginning July 1,
13 2007.

14 (h) The commission shall keep a record of its official
15 actions, and may perform such acts and promulgate such policies,
16 procedures, performance standards, guidelines, rules and
17 regulations as may be necessary. [The department shall assign
18 such personnel as needed for the execution of the commission's
19 function under this act.]

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

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

30 (k) At the last regular meeting of the commission in the

1 calendar year, a vice-chairperson shall be elected by the
2 members of the commission and shall serve in that capacity for
3 the ensuing year.

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

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

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

30 (2) At the request of the [State Conservation Commission]

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

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

27 [(4) The farmer and public members of the commission shall
28 be appointed for a period of four years and shall hold office
29 until their successors have been appointed and have qualified,
30 but no longer than six months beyond the four-year period. The

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

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

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

1 conservation districts;

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

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

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

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

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

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

26 (h) To approve applications for projects and recommend
27 priorities for planning for watershed applications under the
28 Watershed Protection and Flood Prevention Act, U. S. Public Law
29 566 of 1954, as amended;

30 (i) To approve applications for projects and recommend

1 priorities for planning for applications under the Resource and
2 Conservation and Development Program authorized by Public Law
3 87-703, the Food and Agriculture Act of 1962, as amended;

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

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

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

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

20 (n) To develop, implement and enforce programs which meet
21 the purposes of this act, including nutrient management and odor
22 management under 3 Pa.C.S. Ch. 5 (relating to nutrient
23 management and odor management) and resource enhancement and
24 protection tax credits under Article XVII-E of the act of March
25 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

26 (6) The commission shall have the power to receive such
27 funds as appropriated, given, granted or donated to it, or to
28 the program provided for in this act by the Federal Government,
29 the Commonwealth or any other governmental or private agency or
30 person, and shall use such funds for the carrying out of the

1 provisions of this act. The commission may allocate such funds,
2 or parts thereof, to the conservation districts or to any agency
3 of this Commonwealth, the United States, or cooperating
4 organization. Funds so allocated shall be apportioned in an
5 equitable and just manner at the discretion of the commission,
6 but the decision of the commission shall be final.

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

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

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

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

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

1 Section 5. Sections 6 and 7 of the act, amended April 30,
2 1986 (P.L.128, No.39), are amended to read:

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

1 having secured nomination lists, the county governing body shall
2 appoint the proper number of directors. The composition of the
3 board shall be determined by the county governing body and
4 approved by the commission before such change becomes effective.

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

8 Section 7. Appointment; Qualifications; Compensation; and
9 Tenure of Directors.--(1) (A) The director appointed from the <—
10 county governing body shall be appointed annually by the county
11 governing body. A county governing body may require that a
12 director of the conservation district be a resident of the
13 county. The term of office for farmer and public directors will
14 be four years, except that directors shall be appointed so that
15 no more than three directors' terms shall expire in any one
16 year, unless a conservation district board is comprised of more
17 than seven directors as provided for in section 7. A director
18 shall hold office until a successor has been appointed and has
19 qualified BUT NO LONGER THAN SIX MONTHS BEYOND THE FOUR-YEAR <—
20 PERIOD. Vacancies shall be filled for the unexpired terms.

21 ~~Successors to fill unexpired terms or for full terms shall be~~ <—

22 (B) (I) SUCCESSORS TO FILL [UNEXPIRED TERMS OR FOR] FULL <—
23 TERMS SHALL BE appointed by the county governing body from a
24 list containing at least [double the number of directors] one
25 eligible nominee for each director to be appointed, and such
26 list [to] shall be composed of eligible nominations submitted in
27 writing by a qualified officer of each of the organizations
28 designated by the [~~State Conservation Commission.~~] commission. <—
29 ~~The names and~~ [STATE CONSERVATION COMMISSION.] COMMISSION. <—

30 (II) SUCCESSORS TO FILL UNEXPIRED TERMS SHALL BE APPOINTED

1 BY THE COUNTY GOVERNING BODY AS IN SUBPARAGRAPH (A), OR FROM A
2 LIST OF THE ASSOCIATE CONSERVATION DISTRICT DIRECTORS WHO HAVE
3 HAD TWO OR MORE YEARS OF ACTIVE SERVICE WITH THAT DISTRICT AND
4 WHO MEET THE COMMISSION'S ELIGIBILITY CRITERIA FOR THE UNEXPIRED
5 TERM. THE NAMES AND contact information, including home
6 addresses of all directors, shall be provided to the commission
7 by the county governing body within thirty days of their
8 appointment. The final list of nominations shall be placed on
9 file by the county governing body and shall be open to public
10 inspection. In filling unexpired terms, the county governing
11 body may make appointments from any list prepared in the above
12 manner that has been compiled within the twelve months preceding
13 such appointments.

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

30 Section 6. Section 8 of the act is amended by adding a

1 paragraph to read:

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

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

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

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

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

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

30 (3) To carry out preventive and control measures within the

1 district, including but not limited to, engineering operations,
2 methods of cultivation, the growing of vegetation, changes in
3 use of land and drainage operations on lands owned or controlled
4 by this Commonwealth or any of its agencies with the consent and
5 cooperation of the agency administering and having jurisdiction
6 thereof, and on any other lands within the district upon
7 obtaining the written consent of the owner and occupier of such
8 lands or the necessary rights or interests in such lands;

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

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

30 (6) To make available on such terms as it shall prescribe to

1 land occupiers within the district, agricultural and engineering
2 machinery and equipment; fertilizer, seeds and seedlings and
3 such other material or equipment as will assist such land
4 occupiers to carry on operations upon their lands for the
5 effective conservation and utilization of soil resources; and
6 for the prevention and control of soil erosion;

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

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

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

23 (9.1) To engage in any of the following activities: wetland
24 construction and maintenance; reclamation of mine lands;
25 reclamation of soil erosion; water management; management of
26 parks, trails and related facilities; management of forest lands
27 and roads; road maintenance; odor management and air quality;
28 development of alternative energy resources; or any other
29 natural resource program approved by the commission. NOTHING IN ←
30 THIS SUBSECTION IS INTENDED TO DIMINISH, LIMIT OR INTERFERE WITH

1 THE AUTHORITY PROVIDED STATE AGENCIES UNDER OTHER LAWS OF THIS
2 COMMONWEALTH;

3 (10) To conduct educational programs relating to [soil and
4 water conservation] any natural resource program approved by the
5 conservation district and to publish related educational
6 materials [relating to soil and water conservation];

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

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

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

30 (B) ON LANDS OWNED OR CONTROLLED BY THE COMMONWEALTH OR ANY

1 OF ITS AGENCIES, THE COMMONWEALTH, AT ITS SOLE DISCRETION, MAY
2 AGREE TO FEE SCHEDULES FOR WORK PERFORMED BY THE DISTRICT FOR
3 STATE-DELEGATED PROGRAM DUTIES SPECIFICALLY RELATED TO EARTH
4 DISTURBANCE, EROSION AND SEDIMENT CONTROL OR STREAM
5 ENCROACHMENTS.

6 (C) TO ENTER INTO A CONTRACT OR AGREEMENT WITH FEDERAL,
7 STATE, COUNTY AND LOCAL GOVERNMENTS FOR PAYMENT FOR WORK
8 PERFORMED OR SERVICES RENDERED BY THE DISTRICT CONSISTENT WITH
9 THIS ACT.

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

14 (15) To accept contributions of any character from any
15 source whatsoever, but only by and with the consent and approval
16 of the [State Conservation Commission] commission, unless the
17 funding is from [other governmental agencies] the Federal, State
18 or local government or unless specifically authorized so to do
19 by this act;

20 (16) To sponsor projects under the Watershed Protection and
21 Flood Prevention Act, U.S. Public Law 566 of 1954, as amended,
22 and the Resource and Conservation and Development Program
23 authorized by Public Law 87-703, the Food and Agriculture Act of
24 1962, as amended;

25 (17) To enter public or private property to make such
26 inspections as are necessary to determine compliance with the
27 act of June 22, 1937 (P.L.1987, No.394), known as "The Clean
28 Streams Law"; the act of November 26, 1978 (P.L.1375, No.325),
29 known as the "Dam Safety and Encroachments Act," and any rules,
30 regulations, permits or orders issued thereunder, to the extent

1 that such inspection authority has been delegated to a district
2 by the department;

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

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

14 Section 11. Commonwealth Agencies to Cooperate.--(1)
15 Agencies of this Commonwealth [which have jurisdiction over or
16 are charged with the administration of Commonwealth highways, or
17 any Commonwealth-owned lands] and agencies of any county or
18 other governmental subdivision of the Commonwealth[, which have
19 jurisdiction over or are charged with the administration of any
20 county-owned or other publicly owned lands lying within the
21 boundaries of any district organized hereunder,] may cooperate
22 with the directors of [such districts] any districts organized
23 hereunder in the effectuation of programs and operations
24 undertaken by the board of directors under the provisions of
25 this act.

26 (2) (a) In accordance with regulations adopted by the
27 Environmental Quality Board, the department may, by agreement,
28 delegate to a district one or more of its regulatory and
29 enforcement functions, including, but not limited to, the act of
30 June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams

1 Law," and the rules and regulations adopted thereunder; the act
2 of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining
3 Conservation and Reclamation Act;" the act of October 4, 1978
4 (P.L.851, No.166), known as the "Flood Plain Management Act,"
5 and the rules and regulations adopted thereunder; [and] the act
6 of November 26, 1978 (P.L.1375, No.325), known as the "Dam
7 Safety and Encroachments Act," and the rules and regulations
8 adopted thereunder[.]; and the act of July 7, 1980 (P.L.380,
9 No.97), known as the "Solid Waste Management Act," and the rules
10 and regulations adopted thereunder.

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

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

25 ~~(d) Any delegation agreement entered into by a district and~~ <—
26 ~~any agency of this Commonwealth under this subsection and~~
27 ~~approved by the commission under section 4(5) must include all~~
28 ~~of the following:~~

29 ~~(i) A clear delineation of the duties to be performed;~~

30 ~~(ii) A clear delineation of the authorities under which the~~

1 ~~duties will be performed;~~

2 ~~(iii) An analysis of funding sources available;~~

3 ~~(iv) An estimation of the amount of funds or compensation,~~
4 ~~if any, to be provided;~~

5 ~~(v) Any conditions, limitations or other factors that affect~~
6 ~~or potentially affect the proposed funding sources;~~

7 ~~(vi) Any additional resources, services and support,~~
8 ~~including staff, that may be provided to the conservation~~
9 ~~district.~~

10 ~~Amendments to the delegation agreement shall be made in writing~~
11 ~~and approved by the commission.~~

12 [(3) The department shall monitor and supervise the
13 activities of each district conducted pursuant to the
14 agreement.]

15 (D) PRIOR TO THE COMMISSION'S APPROVAL OF ANY DELEGATION ←
16 AGREEMENT, ANY COMMONWEALTH AGENCY PROPOSING A DELEGATION
17 AGREEMENT MUST PROVIDE THE COMMISSION WITH THE FOLLOWING:

18 (I) AN ANALYSIS OF FUNDING SOURCES FOR THE PROPOSED
19 DELEGATION AGREEMENT;

20 (II) AN ESTIMATION OF THE CURRENT AND PROJECTED AMOUNT OF
21 FUNDS OR COMPENSATION TO BE PROVIDED FOR PROPOSED DELEGATION
22 AGREEMENT;

23 (III) ANY CONDITIONS, LIMITATIONS OR OTHER FACTORS THAT
24 AFFECT OR POTENTIALLY AFFECT THE PROPOSED FUNDING SOURCES;

25 (IV) ANY ADDITIONAL RESOURCES OUTSIDE OF THE PROPOSED
26 FUNDING IN SUPPORT OF THE PROPOSED DELEGATION AGREEMENT; AND

27 (V) A CLEAR DELINEATION OF THE DUTIES, AUTHORITIES,
28 DELIVERABLES AND TASKS TO BE PERFORMED UNDER THE DELEGATION
29 AGREEMENT.

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

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

11 * * *

12 Section 8. Repeals are as follows:

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

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

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