

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILLNo. **1171** Session of
2018

INTRODUCED BY BROOKS, HUTCHINSON, VULAKOVICH, WAGNER AND BROWNE,
MAY 18, 2018

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 1, 2018

AN ACT

1 Amending Titles 3 (Agriculture) and 27 (Environmental Resources)
2 of the Pennsylvania Consolidated Statutes, in nutrient
3 management and odor management, further providing for the
4 Nutrient Management Advisory Board; and, in Agricultural
5 Advisory Board, further providing for establishment of board, <--
6 FOR POWERS OF BOARD AND FOR REVIEW OF REGULATIONS.

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

9 Section 1. Section 510(a) and (d) of Title 3 of the
10 Pennsylvania Consolidated Statutes are amended to read:

11 § 510. Nutrient Management Advisory Board.

12 (a) Creation.--There is created the Nutrient Management
13 Advisory Board. The board shall consist of 16 members appointed
14 by the chairman of the commission and approved by a two-thirds
15 vote of the commission. The members so appointed shall consist
16 of [five] six active commercial farm owners or operators
17 representing the livestock, swine, meat poultry, egg poultry and
18 dairy industry nominated by Statewide general farm
19 organizations, one veterinary nutrition specialist, one

1 representative from the feed industry, one representative from
2 the fertilizer industry, [one representative of commercial
3 agricultural lenders,] one representative of local government,
4 one representative of academia who shall be an agronomist or
5 plant scientist faculty member of the school of agriculture of a
6 Pennsylvania college or university, one representative of
7 academia who shall be an animal science faculty member with an
8 expertise in odor management from the school of agriculture of a
9 college or university within this Commonwealth, one hydrologist,
10 two citizen representatives who are not farmers and one
11 environmental representative, all of whom shall have sufficient
12 knowledge, experience or familiarity with agronomic practices,
13 nutrient management practices or odor management practices and
14 all of whom shall be residents of this Commonwealth. The six
15 active commercial farm owners or operators shall be nominated in
16 a manner that provides representation of the northwest, north
17 central, northeast, southwest, south central and southeast
18 regions of this Commonwealth, corresponding to the regions
19 served by the Department of Environmental Protection regional
20 offices. Two of the six active commercial farm owners or
21 operators shall hold an active concentrated animal feeding
22 operation permit as required by the act of June 22, 1937
23 (P.L.1987, No.394), known as The Clean Streams Law.

24 * * *

25 (d) Duties.--The board shall review and comment on all
26 commission proposed regulations, the interim guidelines under
27 section 504(2) (relating to powers and duties of commission) and
28 the interim criteria under section 504(5) developed to implement
29 the provisions of this chapter. The commission shall have no
30 power to promulgate regulations, interim guidelines or interim

1 criteria under this chapter until receipt of written comments on
2 the proposed regulations, guidelines or criteria from the board
3 or until [60] 90 days have expired from the date when the
4 regulations, guidelines or criteria were submitted by the
5 commission to the board for its comments. Existing regulations,
6 guidelines and criteria shall continue until modified,
7 superseded or repealed by the commission.

8 * * *

9 ~~Section 2. Section 702(b) of Title 27 is amended by adding a <--~~
10 ~~paragraph to read:~~

11 SECTION 2. SECTIONS 702(B) (2), 703 AND 704(A) AND (B) OF <--
12 TITLE 27 ARE AMENDED TO READ:

13 § 702. Establishment of board.

14 * * *

15 (b) Members.--The following persons shall comprise the
16 board:

17 * * *

18 ~~(7) Two members appointed by the secretary that hold an <--~~
19 ~~active concentrated animal feeding operation permit as~~
20 ~~required by the act of June 22, 1937 (P.L.1987, No.394),~~
21 ~~known as The Clean Streams Law.~~

22 * * *

23 (2) A DAIRY PRODUCER, A LIVESTOCK PRODUCER, A POULTRY <--
24 PRODUCER, A GRAIN PRODUCER, A FRUIT PRODUCER, A VEGETABLE
25 PRODUCER, A REPRESENTATIVE OF THE ORNAMENTAL HORTICULTURAL
26 INDUSTRY, A PRODUCER ENGAGED IN SUSTAINABLE AGRICULTURE, A
27 REPRESENTATIVE FROM THE AGRICULTURAL CHEMICAL MANUFACTURERS
28 INDUSTRY AND A REPRESENTATIVE FROM THE AGRIBUSINESS INDUSTRY.
29 THE GOVERNOR SHALL APPOINT THESE REPRESENTATIVES TO SIT FOR A
30 THREE-YEAR TERM. REPRESENTATIVES APPOINTED UNDER THIS

1 PARAGRAPH MUST RECEIVE A MAJORITY OF THEIR GROSS INCOME FROM
2 THE ACTIVITY WHICH THEY REPRESENT. TWO OF THE REPRESENTATIVES
3 APPOINTED UNDER THIS PARAGRAPH SHALL HOLD AN ACTIVE
4 CONCENTRATED ANIMAL FEEDING OPERATION PERMIT AS REQUIRED BY
5 THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE
6 CLEAN STREAMS LAW.

7 * * *

8 § 703. POWERS OF BOARD.

9 (A) GENERAL RULE.--THE BOARD SHALL HAVE THE FOLLOWING
10 POWERS:

11 (1) PROVIDE ADVICE AND EXPERTISE TO THE SECRETARY
12 REGARDING THE NATURE OF AGRICULTURE IN THIS COMMONWEALTH.

13 (2) ASSIST THE SECRETARY AND PROVIDE WRITTEN COMMENTS ON
14 NEW DEPARTMENTAL POLICY THAT WILL IMPACT UPON AGRICULTURE IN
15 THIS COMMONWEALTH.

16 (3) ASSIST THE SECRETARY AND PROVIDE COMMENT ON
17 REGULATORY, PERMITTING, TECHNICAL GUIDANCE AND POLICY
18 PROPOSALS PURSUANT TO SECTION 704 (RELATING TO REVIEW OF
19 REGULATIONS).

20 (4) PROVIDE COMMENT TO THE SECRETARY REGARDING EXISTING
21 DEPARTMENTAL POLICY, PERMITTING, TECHNICAL GUIDANCE AND
22 REGULATIONS AFFECTING AGRICULTURE IN THIS COMMONWEALTH.

23 (B) EXEMPT REGULATIONS.--REGULATIONS SUBJECT TO REVIEW BY
24 THE SEASONAL FARM LABOR COMMITTEE UNDER THE ACT OF JUNE 23, 1978
25 (P.L.537, NO.93), KNOWN AS THE SEASONAL FARM LABOR ACT, ARE
26 EXEMPT FROM REVIEW UNDER SUBSECTION (A).

27 § 704. REVIEW OF REGULATIONS AND OTHER DOCUMENTS.

28 (A) NOTICE TO BOARD.--

29 (1) THE DEPARTMENT SHALL NOTIFY THE BOARD OF THE
30 DEVELOPMENT OF ANY REGULATORY PROPOSAL, PERMIT, TECHNICAL

1 GUIDANCE OR DEPARTMENTAL POLICY WHICH WOULD REGULATE OR
2 AFFECT AGRICULTURE AS EARLY AS POSSIBLE BUT NOT LESS THAN 120
3 DAYS PRIOR TO:

4 (I) THE DATE THE ENVIRONMENTAL QUALITY BOARD MEETS
5 TO INITIALLY CONSIDER ANY PROPOSED RULEMAKING RESULTING
6 FROM THE REGULATORY PROPOSAL[.];

7 (II) THE DATE THE DEPARTMENT PUBLISHES NOTICE TO
8 ESTABLISH OR CHANGE A PERMIT; OR

9 (III) THE DATE THE DEPARTMENT ESTABLISHES A POLICY.

10 (2) NOT LESS THAN 60 DAYS PRIOR TO AN ACTION UNDER
11 PARAGRAPH (1) (I), (II) OR (III), THE DEPARTMENT SHALL PROVIDE
12 THE BOARD WITH A WRITTEN VERSION IN SUBSTANTIALLY THE FORM
13 THAT WILL BE PUBLISHED OR ESTABLISHED OF ANY REGULATORY,
14 PERMIT, TECHNICAL GUIDANCE OR DEPARTMENTAL POLICY PROPOSAL
15 THAT WOULD REGULATE OR AFFECT AGRICULTURE.

16 (3) THE DEPARTMENT MAY NOT PUBLISH OR ESTABLISH ANY
17 REGULATORY, PERMIT, TECHNICAL GUIDANCE OR DEPARTMENTAL POLICY
18 PROPOSAL THAT REGULATES OR AFFECTS AGRICULTURE PRIOR TO BOARD
19 REVIEW OF A DOCUMENT PROVIDED UNDER PARAGRAPH (2). ANY
20 DISCUSSION OR DECISION BY THE BOARD RELATED TO THE REVIEW
21 SHALL BE REFLECTED IN THE MINUTES OF THE BOARD.

22 (B) MEETING AND CONSULTATION WITH BOARD.--AT THE REQUEST OF
23 THE BOARD, IF THE REQUEST IS MADE WITHIN 30 DAYS FROM THE DATE
24 OF RECEIPT OF THE NOTICE REQUIRED BY SUBSECTION (A), THE
25 DEPARTMENT SHALL MEET AND CONSULT WITH THE BOARD IN THE
26 FORMULATION OF ANY SUCH REGULATORY, PERMIT, TECHNICAL GUIDANCE
27 OR DEPARTMENTAL POLICY PROPOSAL, AND THEREAFTER THE BOARD MAY
28 PROVIDE THE DEPARTMENT WITH WRITTEN COMMENTS THEREON.

29 * * *

30 Section 3. Members of the Nutrient Management Advisory Board

1 AND MEMBERS OF THE AGRICULTURAL ADVISORY BOARD, as of the <--
2 effective date of this section, shall continue to serve as
3 members OF THEIR RESPECTIVE BOARDS until their present terms of <--
4 office expire.

5 Section 4. This act shall take effect in 60 days.