

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 634 Session of 2019

INTRODUCED BY YAW, LAUGHLIN, J. WARD, STEFANO AND YUDICHAK, MAY 13, 2019

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 20, 2019

AN ACT

1 ~~Amending Title 3 (Agriculture) of the Pennsylvania Consolidated~~ <--
2 ~~Statutes, in soil and conservation, providing for~~
3 ~~Conservation Excellence Grant Program.~~

4 AMENDING TITLE 3 (AGRICULTURE) OF THE PENNSYLVANIA CONSOLIDATED <--
5 STATUTES, IN SOIL AND CONSERVATION, PROVIDING FOR
6 CONSERVATION EXCELLENCE GRANT PROGRAM; AND MAKING AN
7 EDITORIAL CHANGE.

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

10 ~~Section 1. The heading of Part V of Title 3 of the~~ <--
11 ~~Pennsylvania Consolidated Statutes is amended to read:~~

12 PART V
13 SOIL AND CONSERVATION
14 {(Reserved)}

15 ~~Section 2. Part V of Title 3 is amended by adding a chapter~~
16 ~~to read:~~

17 CHAPTER 31
18 CONSERVATION EXCELLENCE GRANT PROGRAM

19 Sec.

1 ~~3101. Definitions.~~

2 ~~3102. Establishment.~~

3 ~~3103. Administration of program.~~

4 ~~3104. Application guidelines.~~

5 ~~3105. Grants.~~

6 ~~3106. Project certification.~~

7 ~~3107. Criteria for evaluation of applications.~~

8 ~~§ 3101. Definitions.~~

9 ~~The following words and phrases when used in this chapter~~
10 ~~shall have the meanings given to them in this section unless the~~
11 ~~context clearly indicates otherwise:~~

12 ~~"Best management practice." A practice or combination of~~
13 ~~practices determined by the State Conservation Commission or~~
14 ~~United States Department of Agriculture Natural Resources~~
15 ~~Conservation Service to be effective and practical, considering~~
16 ~~technological, economic and institutional factors, to manage~~
17 ~~nutrients and sediment to protect surface water and groundwater.~~

18 ~~"Commission." The State Conservation Commission established~~
19 ~~under section 4 of the act of May 15, 1945 (P.L.547, No.217),~~
20 ~~known as the Conservation District Law.~~

21 ~~"Program." The Conservation Excellence Grant Program~~
22 ~~established under section 3102 (relating to establishment).~~

23 ~~"USDA NRCS." The United States Department of Agriculture~~
24 ~~Natural Resources Conservation Service.~~

25 ~~§ 3102. Establishment.~~

26 ~~The Conservation Excellence Grant Program is established~~
27 ~~within the commission.~~

28 ~~§ 3103. Administration of program.~~

29 ~~The commission shall administer the program for the purpose~~
30 ~~of providing technical and financial assistance to farmers and~~

~~1 landowners for the implementation of high quality best
2 management practice projects in high priority locations within
3 this Commonwealth through grants as authorized under section
4 4(7) of the act of May 15, 1945 (P.L.547, No.217), known as the
5 Conservation District Law.~~

~~6 § 3104. Application guidelines.~~

~~7 The commission shall establish guidelines for the approval of
8 applications for eligible projects under the program.~~

~~9 § 3105. Grants.~~

~~10 The commission may award grants to applicants for eligible
11 projects that the commission determines will further the purpose
12 of the program.~~

~~13 § 3106. Project certification.~~

~~14 The commission shall ensure that a project satisfies the
15 requirements of the program in accordance with the following:~~

~~16 (1) Except as provided under paragraph (2), if a
17 project's best management practice requires review and
18 certification by a registered professional engineer under the
19 applicable laws or regulations of this Commonwealth, the best
20 management practice shall be certified by a registered
21 professional engineer.~~

~~22 (2) Any other project shall be certified by a technical
23 service provider, staff from a conservation district or the
24 USDA NRCS or any other person who has appropriate training
25 and expertise and is approved by the commission.~~

~~26 § 3107. Criteria for evaluation of applications.~~

~~27 In approving applications for eligible projects under the
28 program, the commission shall give priority to applications
29 based upon the following criteria and this order:~~

~~30 (1) Priority locations as follows:~~

1 ~~(i) Counties designated by the Department of~~
2 ~~Environmental Protection as Tier 1 Chesapeake Bay~~
3 ~~counties.~~

4 ~~(ii) Counties designated by the Department of~~
5 ~~Environmental Protection as Tier 2 and 3 Chesapeake Bay~~
6 ~~counties.~~

7 ~~(iii) All other counties.~~

8 ~~(2) Priority practices as follows:~~

9 ~~(i) Livestock exclusion fencing.~~

10 ~~(ii) Stream side buffers.~~

11 ~~(iii) Streambank restoration.~~

12 ~~(iv) Barnyard and feedlot runoff abatement.~~

13 ~~(v) Stream crossings.~~

14 ~~(vi) Off stream watering.~~

15 ~~(vii) Manure storage facilities.~~

16 ~~(viii) Nutrient management plans and manure~~
17 ~~management plans.~~

18 ~~(ix) Agricultural erosion and sedimentation plans.~~

19 ~~(x) Any other priority practices approved by the~~
20 ~~commission.~~

21 ~~(3) The level and extent of planning and technical~~
22 ~~assistance, including inventory and evaluation, design work,~~
23 ~~permits and similar types of assistance, already completed to~~
24 ~~allow for accurate estimates of project costs and for~~
25 ~~completion of the project in a timely fashion.~~

26 ~~(4) The extent to which an applicant is willing to~~
27 ~~supply nongovernmental matching funds for the project.~~

28 ~~(5) Any other criteria as adopted by the commission.~~

29 Section 3. This act shall take effect in 60 days.

30 SECTION 1. THE HEADING OF PART V OF TITLE 3 OF THE

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1 PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO READ:

2 PART V

3 SOIL AND CONSERVATION

4 [(RESERVED)]

5 SECTION 2. PART V OF TITLE 3 IS AMENDED BY ADDING A CHAPTER
6 TO READ:

7 CHAPTER 31

8 CONSERVATION EXCELLENCE GRANT PROGRAM

9 SEC.

10 3101. DEFINITIONS.

11 3102. ESTABLISHMENT.

12 3103. ADMINISTRATION OF PROGRAM.

13 3104. APPLICATION GUIDELINES.

14 3105. GRANTS, LOANS AND TAX CREDITS.

15 3106. PROJECT CERTIFICATION.

16 3107. CRITERIA FOR EVALUATION OF APPLICATIONS.

17 3108. APPLICATION, REVIEW AND AUTHORIZATION BY COMMISSION.

18 3109. ASSISTANCE FROM COUNTY CONSERVATION DISTRICTS.

19 3110. DISTRIBUTION OF FUNDS.

20 § 3101. DEFINITIONS.

21 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

22 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE

23 CONTEXT CLEARLY INDICATES OTHERWISE:

24 "AGRICULTURAL OPERATION." THE MANAGEMENT AND USE OF FARMING

25 RESOURCES FOR THE PRODUCTION OF CROPS, LIVESTOCK OR POULTRY.

26 "BEST MANAGEMENT PRACTICE." A PRACTICE OR COMBINATION OF

27 PRACTICES DETERMINED BY THE STATE CONSERVATION COMMISSION OR

28 UNITED STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCES AND

29 CONSERVATION SERVICE TO BE EFFECTIVE AND PRACTICAL, CONSIDERING

30 TECHNOLOGICAL, ECONOMIC AND INSTITUTIONAL FACTORS, TO MANAGE

1 NUTRIENTS AND SEDIMENT TO PROTECT SURFACE WATER AND GROUNDWATER.

2 "COMMISSION." THE STATE CONSERVATION COMMISSION ESTABLISHED
3 UNDER SECTION 4 OF THE ACT OF MAY 15, 1945 (P.L.547, NO.217),
4 KNOWN AS THE CONSERVATION DISTRICT LAW.

5 "PROGRAM." THE CONSERVATION EXCELLENCE GRANT PROGRAM
6 ESTABLISHED UNDER SECTION 3102 (RELATING TO ESTABLISHMENT).

7 "USDA-NRCS." THE UNITED STATES DEPARTMENT OF AGRICULTURE
8 NATURAL RESOURCES AND CONSERVATION SERVICE.
9 § 3102. ESTABLISHMENT.

10 THE CONSERVATION EXCELLENCE GRANT PROGRAM IS ESTABLISHED
11 WITHIN THE COMMISSION.

12 § 3103. ADMINISTRATION OF PROGRAM.

13 THE COMMISSION SHALL ADMINISTER THE PROGRAM FOR THE PURPOSE
14 OF PROVIDING TECHNICAL AND FINANCIAL ASSISTANCE FOR THE
15 IMPLEMENTATION OF BEST MANAGEMENT PRACTICE PROJECTS ON
16 AGRICULTURAL OPERATIONS IN HIGH-PRIORITY LOCATIONS WITHIN THIS
17 COMMONWEALTH THROUGH GRANTS, LOANS AND TAX CREDITS, OR A
18 COMBINATION OF ALL THREE, AS AUTHORIZED UNDER SECTION 4(7) OF
19 THE ACT OF MAY 15, 1945 (P.L.547, NO.217), KNOWN AS THE
20 CONSERVATION DISTRICT LAW.

21 § 3104. APPLICATION GUIDELINES.

22 THE COMMISSION SHALL ESTABLISH GUIDELINES FOR THE APPROVAL OF
23 APPLICATIONS FOR ELIGIBLE PROJECTS UNDER THE PROGRAM.

24 § 3105. GRANTS, LOANS AND TAX CREDITS.

25 (A) AWARDS.--THE COMMISSION MAY AWARD GRANTS OR LOANS OR
26 REQUEST THAT THE DEPARTMENT OF REVENUE ISSUE TAX CREDITS TO
27 APPLICANTS FOR ELIGIBLE PROJECTS, INCLUDING COSTS INCURRED TO
28 SATISFY THE CERTIFICATION REQUIREMENTS OF SECTION 3106 (RELATING
29 TO PROJECT CERTIFICATION), THAT THE COMMISSION DETERMINES WILL
30 FURTHER THE PURPOSE OF THE PROGRAM.

1 (B) GRANTS.--GRANTS SHALL BE AWARDED TO THE EXTENT FUNDING
2 IS MADE AVAILABLE BY THE GENERAL ASSEMBLY.

3 (C) LOANS.--LOANS UNDER THIS SECTION MAY BE AWARDED THROUGH
4 THE AGRICULTURE-LINKED INVESTMENT PROGRAM OR ANY OTHER LOAN
5 PROGRAM APPROVED BY THE COMMISSION.

6 (D) TAX CREDITS.--TAX CREDITS UNDER THIS SECTION MAY BE
7 AWARDED THROUGH THE RESOURCE ENHANCEMENT AND PROTECTION TAX
8 CREDIT PROGRAM UNDER ARTICLE XVII-E OF THE ACT OF MARCH 4, 1971
9 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

10 § 3106. PROJECT CERTIFICATION.

11 THE COMMISSION SHALL ENSURE THAT A PROJECT SATISFIES THE
12 REQUIREMENTS OF THE PROGRAM IN ACCORDANCE WITH THE FOLLOWING:

13 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), IF A
14 PROJECT'S BEST MANAGEMENT PRACTICE REQUIRES REVIEW AND
15 CERTIFICATION BY A REGISTERED PROFESSIONAL ENGINEER UNDER THE
16 APPLICABLE LAWS OR REGULATIONS OF THIS COMMONWEALTH, THE BEST
17 MANAGEMENT PRACTICE SHALL BE CERTIFIED BY A REGISTERED
18 PROFESSIONAL ENGINEER.

19 (2) ANY OTHER PROJECT SHALL BE CERTIFIED BY A TECHNICAL
20 SERVICE PROVIDER, STAFF FROM A CONSERVATION DISTRICT OR THE
21 USDA-NRCS OR ANY OTHER PERSON WHO HAS APPROPRIATE TRAINING
22 AND EXPERTISE AND IS APPROVED BY THE COMMISSION.

23 § 3107. CRITERIA FOR EVALUATION OF APPLICATIONS.

24 IN APPROVING APPLICATIONS FOR ELIGIBLE PROJECTS UNDER THE
25 PROGRAM, THE COMMISSION SHALL GIVE PRIORITY TO COMPLETE
26 APPLICATIONS BASED UPON THE FOLLOWING CRITERIA:

27 (1) PRIORITY LOCATIONS AS FOLLOWS AND IN THIS ORDER:

28 (I) COUNTIES DESIGNATED BY THE DEPARTMENT OF
29 ENVIRONMENTAL PROTECTION AS TIER 1 CHESAPEAKE BAY
30 COUNTIES.

1 (II) COUNTIES DESIGNATED BY THE DEPARTMENT OF
2 ENVIRONMENTAL PROTECTION AS TIER 2 AND 3 CHESAPEAKE BAY
3 COUNTIES.

4 (III) ALL OTHER COUNTIES.

5 (2) PRIORITY PRACTICES AS FOLLOWS:

6 (I) LIVESTOCK EXCLUSION FENCING.

7 (II) STREAM-SIDE BUFFERS.

8 (III) STREAMBANK RESTORATION.

9 (IV) BARNYARD AND FEEDLOT RUNOFF ABATEMENT.

10 (V) STREAM CROSSINGS.

11 (VI) OFF-STREAM WATERING.

12 (VII) MANURE STORAGE FACILITIES.

13 (VIII) NUTRIENT MANAGEMENT PLANS AND MANURE
14 MANAGEMENT PLANS.

15 (IX) CONSERVATION PLANS OR AGRICULTURAL EROSION AND
16 SEDIMENTATION PLANS.

17 (X) COVER CROPS.

18 (XI) ANY OTHER PRIORITY PRACTICES APPROVED BY THE
19 COMMISSION.

20 (3) THE LEVEL AND EXTENT OF PLANNING AND TECHNICAL
21 ASSISTANCE, SUCH AS INVENTORY AND EVALUATION, DESIGN WORK,
22 PERMITS AND SIMILAR TYPES OF ASSISTANCE, ALREADY COMPLETED TO
23 ALLOW FOR ACCURATE ESTIMATES OF PROJECT COSTS AND FOR
24 COMPLETION OF THE PROJECT IN A TIMELY FASHION.

25 (4) THE EXTENT TO WHICH AN APPLICANT IS WILLING TO
26 ACCEPT A REASONABLE MIX OF GRANTS, LOANS AND TAX CREDITS OR
27 TO SUPPLY NONGOVERNMENTAL MATCHING FUNDS FOR THE PROJECT.

28 (5) ANY OTHER CRITERIA AS ADOPTED BY THE COMMISSION.

29 § 3108. APPLICATION, REVIEW AND AUTHORIZATION BY COMMISSION.

30 (A) APPLICATION PROCESS.--A PERSON MUST APPLY TO THE

1 COMMISSION FOR A GRANT, LOAN OR TAX CREDIT FOR AN ELIGIBLE
2 PROJECT UNDER THE PROGRAM WITH AN APPLICATION CREATED BY THE
3 COMMISSION. THE APPLICATION MUST INCLUDE ALL OF THE FOLLOWING
4 INFORMATION:

5 (1) THE LOCATION OF THE PROJECT.

6 (2) THE TYPE OF THE PROJECT.

7 (3) THE STATUS OF THE PROJECT.

8 (4) THE TYPE AND COMBINATION OF FUNDING REQUESTED UNDER
9 THE PROGRAM.

10 (5) THE TOTAL COST OF THE PROJECT.

11 (6) ANY OTHER INFORMATION AS REQUIRED BY THE COMMISSION.

12 (B) REVIEW.--THE COMMISSION SHALL REVIEW COMPLETE
13 APPLICATIONS BASED UPON THE CRITERIA ESTABLISHED UNDER SECTION
14 3107 (RELATING TO CRITERIA FOR EVALUATION OF APPLICATIONS) ON AN
15 ONGOING BASIS AND IN THE ORDER RECEIVED. WITHIN 60 DAYS OF
16 RECEIPT OF A COMPLETE APPLICATION, THE COMMISSION SHALL NOTIFY
17 THE APPLICANT OF ALL OF THE FOLLOWING:

18 (1) WHETHER THE PROJECT IS APPROVED FOR FUNDING UNDER
19 THE PROGRAM.

20 (2) THE TOTAL AMOUNT OF FUNDS APPROVED FOR THE PROJECT.

21 (3) THE AMOUNT OF EACH TYPE OF FUNDING APPROVED FOR THE
22 PROJECT.

23 (C) NOTICE OF COMPLETION.--UPON COMPLETION OF A PROJECT
24 FUNDED UNDER THIS PROGRAM, THE PERSON WHO RECEIVED APPROVAL FOR
25 THE PROJECT SHALL NOTIFY THE COMMISSION OF THE COMPLETION OF THE
26 PROJECT. THE NOTICE UNDER THIS SUBSECTION SHALL INCLUDE THE
27 REQUIRED CERTIFICATION UNDER SECTION 3106 (RELATING TO PROJECT
28 CERTIFICATION).

29 (D) INSPECTION.--PROJECTS FUNDED UNDER THIS PROGRAM MAY BE
30 SUBJECT TO INSPECTION BY THE COMMISSION OR THE COMMISSION'S

1 DESIGNATED AGENT.

2 § 3109. ASSISTANCE FROM COUNTY CONSERVATION DISTRICTS.

3 THE COMMISSION MAY, AS IT DEEMS APPROPRIATE, DELEGATE CERTAIN
4 DUTIES AND RESPONSIBILITIES UNDER THIS CHAPTER TO COUNTY
5 CONSERVATION DISTRICTS THAT ARE WILLING TO ENTER INTO AN
6 AGREEMENT TO CARRY OUT THESE DUTIES AND RESPONSIBILITIES.

7 § 3110. DISTRIBUTION OF FUNDS.

8 THE COMMISSION MAY ADVANCE FUNDS TO CONSERVATION DISTRICTS
9 FOR THE PURPOSES AUTHORIZED BY THIS CHAPTER.

10 SECTION 3. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.