
 THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2405 Session of
2022

INTRODUCED BY PICKETT, OWLETT, FRITZ, HAMM, ARMANINI, O'NEAL,
SMITH, HERSHEY, JAMES, RYAN, MILLARD, CAUSER, BROOKS, RAPP,
GROVE, DeLUCA, ROWE, KEEFER, MARSHALL, ZIMMERMAN AND STRUZZI,
APRIL 11, 2022

SENATOR YAW, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE, AS
AMENDED, OCTOBER 18, 2022

AN ACT

1 Amending the act of November 26, 1978 (P.L.1375, No.325),
2 entitled "An act providing for the regulation and safety of
3 dams and reservoirs, water obstructions and encroachments;
4 consolidating and clarifying the programs of the Department
5 of Environmental Resources and Navigation Commission for the
6 Delaware River; establishing penalties and repealing certain
7 acts," ~~further providing for definitions; providing for~~ <--
8 ~~county programs for removing obstructions and flood related~~
9 ~~hazards on streams; and making an editorial change.~~ <--
10 PROVIDING FOR COUNTY CONSERVATION DISTRICT STREAM
11 RECONSTRUCTION EMERGENCY PERMIT AUTHORIZATIONS.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. The definition of "department" in section 3 of~~ <--
15 ~~the act of November 26, 1978 (P.L.1375, No.325), known as the~~
16 ~~Dam Safety and Encroachments Act, is amended and the section is~~
17 ~~amended by adding definitions to read:~~

18 ~~Section 3. Definitions.~~

19 ~~The following words and phrases when used in this act shall~~
20 ~~have, unless the context clearly indicates otherwise, the~~

1 meanings given to them in this section:

2 * * *

3 "Department." The Department of Environmental [Resources]
4 Protection of the Commonwealth [of Pennsylvania].

5 "Drainage area." An area, measured by a horizontal plane and
6 enclosed by a topographical divide, from which direct surface
7 runoff from precipitation normally drains by gravity into a
8 stream above a specified point.

9 * * *

10 "Regional curve." A regression of the relations among
11 drainage areas, selected cross sectional parameters and
12 streamflows.

13 * * *

14 Section 2. The act is amended by adding a section to read:
15 Section 17.1. County programs for removing obstructions and
16 flood related hazards on streams.

17 (a) A county may develop a program to provide two regional
18 curves for the watershed to cover the entire county in
19 accordance with this section. The first regional curve shall be
20 for rural areas, and the second regional curve shall be for
21 portions of streams located in municipalities.

22 (b) A county, in consultation with the county conservation
23 district, shall submit a written notification to the department
24 that describes the program developed under subsection (a). The
25 written notification shall specify the utilization and oversight
26 of the regional curves for the purpose of stream maintenance
27 under the program in accordance with the regulations promulgated
28 under subsection (f). The written notification shall specify the
29 watercourses, water obstructions, appurtenant works and
30 encroachments that the county will maintain, inspect and monitor

1 ~~under the program. The county may not implement the program~~
2 ~~unless the county conservation district is a signatory to the~~
3 ~~written notification.~~

4 ~~(c) After receiving the written notification under~~
5 ~~subsection (b), the department shall conduct at least one annual~~
6 ~~follow up review of the county's program under subsection (a) to~~
7 ~~determine the overall effectiveness of the program and the~~
8 ~~county's compliance with the specifications of the written~~
9 ~~notification and regulations promulgated under subsection (f).~~

10 ~~(d) The department shall develop a training program for~~
11 ~~county conservation districts, counties, municipal equipment~~
12 ~~operators and contractors operating as agents of the counties~~
13 ~~for conducting channel maintenance for the purpose of a program~~
14 ~~developed under subsection (a). The training program shall~~
15 ~~include all of the following:~~

16 ~~(1) An overview of stream processes.~~

17 ~~(2) An explanation of regional curves and the use of~~
18 ~~regional curves in the processes.~~

19 ~~(3) An overview of permits issued by the department and~~
20 ~~utilized for conducting channel maintenance.~~

21 ~~(4) A field exercise in laying out a project.~~

22 ~~(5) A field exercise in the completion of a project.~~

23 ~~(e) Upon completion of the training program under subsection~~
24 ~~(d), a county conservation district may authorize emergency~~
25 ~~permits to persons operating within a program developed under~~
26 ~~subsection (a) in accordance with the written notification under~~
27 ~~subsection (b).~~

28 ~~(f) The Environmental Quality Board, in consultation with~~
29 ~~the department and county conservation districts, shall~~
30 ~~promulgate regulations for the removal of obstructions and~~

~~1 flood related hazards on streams by counties, municipal
2 equipment operators and contractors operating as agents of the
3 counties. In developing the regulations, the Environmental
4 Quality Board may consider existing county programs for the same
5 or similar purpose.~~

~~6 Section 3. This act shall take effect in 60 days.~~

7 SECTION 1. THE ACT OF NOVEMBER 26, 1978 (P.L.1375, NO.325), <--
8 KNOWN AS THE DAM SAFETY AND ENCROACHMENTS ACT, IS AMENDED BY
9 ADDING A SECTION TO READ:

10 SECTION 17.1. COUNTY CONSERVATION DISTRICT STREAM

11 RECONSTRUCTION EMERGENCY PERMIT AUTHORIZATIONS.

12 (A) A COUNTY CONSERVATION DISTRICT WITH AN APPROVED
13 DELEGATION AGREEMENT IN ACCORDANCE WITH SECTIONS 6 AND 17 AND
14 SECTIONS 9(11) AND 11(2) OF THE ACT OF MAY 15, 1945 (P.L.547,
15 NO.217), KNOWN AS THE "CONSERVATION DISTRICT LAW," TO ADMINISTER
16 CERTAIN ACTIVITIES UNDER 25 PA. CODE CH. 105 (RELATING TO DAM
17 SAFETY AND WATERWAY MANAGEMENT), MAY REQUEST AN AMENDMENT TO THE
18 APPROVED DELEGATION AGREEMENT FOR THE WATER OBSTRUCTION AND
19 ENCROACHMENT PROGRAM FROM THE DEPARTMENT FOR THE PURPOSES
20 SPECIFIED UNDER THIS SECTION.

21 (B) AS A COUNTY STREAM RECONSTRUCTION PROGRAM AUTHORIZED BY
22 THE DEPARTMENT UNDER THIS SUBSECTION, A COUNTY CONSERVATION
23 DISTRICT MAY PROPOSE METHODOLOGIES FOR STREAM RECONSTRUCTION
24 ACTIVITIES IN RESPONSE TO OR IN ANTICIPATION OF SIGNIFICANT
25 FLOOD EVENTS TO RESTORE THE NATURAL REGIMEN AND ECOLOGY OF
26 WATERCOURSES USING APPROPRIATE METHODOLOGIES THAT ARE BASED ON
27 CURRENT SCIENTIFIC PRINCIPLES AND PRACTICES AND ARE IN
28 ACCORDANCE WITH 25 PA. CODE CH. 105. THE DEPARTMENT SHALL REVIEW
29 A PROPOSED COUNTY STREAM RECONSTRUCTION PROGRAM UNDER THIS
30 SUBSECTION FOR CONFORMANCE WITH CURRENT SCIENTIFIC PRINCIPLES

1 AND PRACTICES AND 25 PA. CODE CH. 105. THE DEPARTMENT SHALL
2 PROVIDE A RECORD OF DECISION ON THE PROPOSED COUNTY STREAM
3 RECONSTRUCTION PROGRAM TO THE COUNTY CONSERVATION DISTRICT,
4 INCLUDING A DETAILED TECHNICAL REVIEW OF THE PROPOSED COUNTY
5 STREAM RECONSTRUCTION PROGRAM.

6 (C) UPON APPROVAL OF THE COUNTY STREAM RECONSTRUCTION
7 PROGRAM UNDER SUBSECTION (B) BY THE DEPARTMENT, THE COUNTY
8 CONSERVATION DISTRICT MAY REQUEST AN AMENDMENT TO THE COUNTY
9 CONSERVATION DISTRICT'S APPROVED DELEGATION AGREEMENT FOR THE
10 WATER OBSTRUCTION AND ENCROACHMENT PROGRAM FROM THE DEPARTMENT
11 WHICH AUTHORIZES THE COUNTY CONSERVATION DISTRICT TO ISSUE
12 EMERGENCY PERMITS FOR STREAM RECONSTRUCTION. THE DEPARTMENT MAY
13 NOT UNREASONABLY WITHHOLD THE AUTHORIZATION OF THE AMENDMENT.
14 THE AUTHORITY DELEGATED UNDER THIS SUBSECTION FOR THE COUNTY
15 CONSERVATION DISTRICT TO ISSUE EMERGENCY PERMITS SHALL ONLY
16 INCLUDE EMERGENCY STREAM RECONSTRUCTION IN ACCORDANCE WITH THE
17 APPROVED COUNTY STREAM RECONSTRUCTION PROGRAM UNDER SUBSECTION
18 (B), INCLUDING ACTIVITIES WHICH MAY PREVENT A FLOODING EMERGENCY
19 EVENT IN THE FUTURE.

20 (D) THE COUNTY CONSERVATION DISTRICT MAY AUTHORIZE STREAM
21 RECONSTRUCTION ACTIVITIES UNDER AN EMERGENCY PERMIT IN
22 ACCORDANCE WITH THE APPROVED COUNTY STREAM RECONSTRUCTION
23 PROGRAM UNDER SUBSECTION (B) AND THE FINAL AMENDED AND APPROVED
24 DELEGATION AGREEMENT FOR THE WATER OBSTRUCTION AND ENCROACHMENT
25 PROGRAM FOR THE COUNTY.

26 (E) THE DEPARTMENT SHALL DEVELOP A STREAM RECONSTRUCTION
27 EMERGENCY PERMIT FORM FOR USE IN ACCORDANCE WITH THIS SECTION.

28 (F) THE DEPARTMENT SHALL RETAIN THE DUTY TO AUTHORIZE
29 EMERGENCY PERMITS FOR ALL OTHER WATERWAY OBSTRUCTION AND
30 ENCROACHMENT ACTIVITIES UNDER 25 PA. CODE CH. 105 WHERE

1 CONDITIONS THREATEN PUBLIC SAFETY AND THE ENVIRONMENT.

2 (G) THE DEPARTMENT SHALL TRANSMIT A NOTICE OF EACH AMENDMENT
3 TO AN APPROVED DELEGATION AGREEMENT UNDER THIS SECTION TO THE
4 LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE PENNSYLVANIA
5 BULLETIN.

6 (H) NOTWITHSTANDING ANY PROVISION OF THE "CONSERVATION
7 DISTRICT LAW" OR 2 PA.C.S. CHS. 5 SUBCH. B (RELATING TO PRACTICE
8 AND PROCEDURE OF LOCAL AGENCIES) AND 7 SUBCH. B (RELATING TO
9 JUDICIAL REVIEW OF LOCAL AGENCY ACTION), KNOWN AS THE "LOCAL
10 AGENCY LAW," A PERSON AGGRIEVED BY AN ACTION OF A COUNTY
11 CONSERVATION DISTRICT UNDER AN APPROVED DELEGATION AGREEMENT
12 WHICH IS AMENDED UNDER THIS SECTION MAY APPEAL SUCH ACTION TO
13 THE DEPARTMENT WITHIN 30 DAYS AFTER NOTICE OF SUCH ACTION. A
14 PERSON AGGRIEVED BY AN ACTION OF THE DEPARTMENT REGARDING THE
15 INITIAL APPEAL UNDER THIS SUBSECTION MAY APPEAL SUCH ACTION TO
16 THE ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH SECTION 24.

17 (I) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THIS SECTION,
18 THE DEPARTMENT SHALL PROVIDE NOTICE TO EACH COUNTY CONSERVATION
19 DISTRICT OF THE AVAILABILITY OF A COUNTY STREAM RECONSTRUCTION
20 PROGRAM UNDER THIS SECTION.

21 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.