

No. 557

AN ACT

Relating to soil conservation and soil erosion, and regulating land use practices contributing to soil wastage and soil erosion; providing for the organization of soil conservation districts, as governmental subdivisions of the Commonwealth, with powers of enacting ordinances and regulations for the prevention and control of soil erosion and the conservation of soil resources; prescribing the officers and employes thereof, and defining their powers and duties; creating the State Soil Conservation Board in the Department of Agriculture and imposing powers and prescribing duties thereon relative to the enforcement of this act; providing financial assistance to such soil conservation districts; prescribing penalties; and making an appropriation.

Be it enacted, &c., That,

Short title.

Section 1. Short Title.—This act may be known, and cited, as the “Soil Conservation Districts Law.”

Section 2. Legislative Determinations and Declaration of Policy.—It is hereby declared as a matter of legislative determination—

Unfavorable conditions.

A. The condition. That the farm and grazing lands of this Commonwealth are among the basic assets of the Commonwealth, and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this Commonwealth by wind and water; that the breaking of natural grass plant and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protected but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands, and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

Results of said unfavorable conditions.

B. The consequences. That the consequences of such soil erosion, in the form of soil-blowing and soil-washing, are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand and

gravel swept out of the hills; deterioration of soil and its fertility; deterioration of crops grown thereon and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildfire; a blowing and washing of soil into streams which silts over spawning beds and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods which bring suffering, disease and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydro-electric power, municipal water supply, irrigation developments, farming, and grazing.

C. The appropriate corrective methods. That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, and the like, the utilization of strip cropping, lister furrowing, contour cultivating and contour furrowing, land irrigation, seeding and planting of waste, sloping, abandoned or eroded lands to water conserving and erosion-preventing plants, trees, and grasses, forestation and reforestation, rotation of crops, soil stabilization with trees, grasses, legumes, and other thick-growing soil-holding crops; retardation of run-off by increasing absorption of rainfall, and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

Remedies.

D. Declaration of policy. It is hereby declared to be the policy of the Legislature to provide for the conservation of the soil and soil resources of this Commonwealth, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wild-life, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this Commonwealth.

Policy.

Section 3. Definitions.—Wherever used or referred to in this act, unless a different meaning clearly appears from the context,

Definitions.

(1) "District" or "soil conservation district" means a governmental subdivision of this Commonwealth, and a public body corporate and politic organized in accordance with the provisions of this act for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Board" means the State Soil Conservation Board created in section 4 of this act.

(4) "Petition" means a petition filed, under the provisions of subsection A of section 5 of this act, for the creation of a district.

(5) "Nominating petition" means a petition filed under the provisions of section 6 of this act, to nominate candidates for the office of supervisor of a soil conservation district.

(6) "Commonwealth" means the Commonwealth of Pennsylvania.

(7) "Agency of this Commonwealth" includes the government of this Commonwealth and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this Commonwealth.

(8) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this Commonwealth, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land occupier" or "occupier of land" includes any person, firm or corporation who shall hold title to or shall be in possession of any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise.

(11) "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

Section 4. State Soil Conservation Board.—A. There is hereby created in the Department of Agriculture the State Soil Conservation Board, which shall be a departmental administrative board with all the powers and duties generally vested in and imposed upon such boards by the Administrative Code of one thousand nine hundred twenty-nine, and its amendments. The board shall consist of the Secretary of Forests and Waters, Secretary of Highways, Director of State College Experimental Station, Chief Engineer of the Water and Power Resources Board, and the Secretary of Agriculture ex officio. The board shall perform the functions conferred upon it in this act, and may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the above mentioned members as a member of the committee. The board shall keep a record of its official actions, shall adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

State Soil Conservation Board.

Personnel of the board.

Board shall keep records, have seal, judicially noticed, and make rules and regulations.

B. The State Soil Conservation Board may employ an administrative officer, and such technical experts, and such other agents and employes, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The board shall call upon the Attorney General of the Commonwealth for such legal services as it may require. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employes, such powers and duties as it may deem proper. It shall be supplied with suitable office accommodations at the State Capitol, and shall be furnished with the necessary supplies and equipment. Upon request of the board for the purpose of carrying out any of its functions, the supervising officer of any agency of the Commonwealth or of any State institution of learning shall, in so far as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the board, members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys or studies as the board may request.

Employes.

Accommodations and equipment.

Cooperation of other State agencies.

C. The board shall designate its chairman, and may from time to time change such designation. A member of the board shall hold office so long as he shall retain the office by virtue of which he shall be serving on the board. A majority of the board shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the board shall receive no compensation for their services on the

Organization of board.

board, but shall be entitled to expenses, including traveling expenses necessarily incurred in the discharge of their duties on the board. The board shall provide for the execution of surety bonds for all employes and officers who shall be entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

Duties and powers of the board.

D. In addition to the duties and powers hereinafter conferred upon the State Soil Conservation Board, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts organized as provided hereinafter in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies and of agencies of this Commonwealth in the work of such districts.

(5) To disseminate information throughout the Commonwealth concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

Section 5. Creation of Soil Conservation Districts.— Any twenty-five (25) occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State Soil Conservation Board, asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth—

Soil conservation districts.

Contents of petition.

(1) The proposed name of said district.

(2) That there is need in the interest of the public health, safety, and welfare for a soil conservation district to function in the territory described in the petition.

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate.

(4) A request that the State Soil Conservation Board

duly define the boundaries for such district, that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory, and that the board determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Board may consolidate all or any such petitions.

Where more than one petition in same county.

B. Within thirty (30) days after such a petition has been filed with the State Soil Conservation Board, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this act, and upon all questions relevant to such inquiries. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the board shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define by metes and bounds or by legal subdivisions the boundaries of such district. In making such determination, and in defining such boundaries, the board shall give due weight and consideration to the topography of the area considered and of the Commonwealth, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative de-

Hearing and notice thereof.

Determination.

Territory included need not be contiguous.

Denial of petition.

Subsequent petitions.

Determination of administrative practicability and feasibility.

Referendum.

Notice.

Ballots.

Who eligible to vote.

Expenses paid by board.

terminations set forth in section 2 of this act. The territory to be included within such boundaries need not be contiguous. If the board shall determine, after such hearing after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After 6 months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid, and new hearings held and determinations made thereon.

C. After the board has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory, and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the board in the determination of such administrative practicability and feasibility, it shall be the duty of the board within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district and to cause due notice of such referendum to be given. The question shall be submitted by ballots, upon which the words "For creation of a soil conservation district of the lands below described and lying in the county (ies) of and,," and "Against creation of a soil conservation district of the lands below described and lying in the county (ies) of and,," shall be printed with a square before each proposition, and a direction to insert an X mark in the square before one or the other of said propositions, as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the board. All occupiers of lands lying within the boundaries of the territory as determined by the State Soil Conservation Board shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote.

D. The board shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration, prior to the

date of the referendum, of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof, if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Informality not to invalidate.

E. The board shall publish the result of such referendum, and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the board shall determine that the operation of such district is not administratively practicable and feasible it shall record such determination and deny the petition. If the board shall determine that the operation of such district is administratively practicable and feasible it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination, the board shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative determinations set forth in section 2 of this act: Provided, however, That the board shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

Publication of result of referendum.

Board to consider attitudes of occupiers of the lands, etc.

F. If the board shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors, to act with the three (3) supervisors elected, as provided hereinafter, as the governing body of the district; such district shall be a governmental subdivision of this Commonwealth, and a public body corporate and politic, upon the taking of the following proceedings:

Board appoints two of the supervisors.

Such soil conservation district to be a governmental subdivision of the Commonwealth, etc.

The two appointed supervisors shall present to the Secretary of the Commonwealth an application signed by them which shall set forth (and such application need contain no detail other than the mere recitals)—
(1) that a petition for the creation of the district was

Application to Secretary of the Commonwealth.

Contents.

filed with the State Soil Conservation Board pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition, that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body corporate and politic under this act, and that the board has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this State to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State Soil Conservation Board, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held, as aforesaid, that the board did duly determine that there is need in the interest of the public health, safety, and welfare for a soil conservation district to function in the proposed territory and did define the boundaries thereof, that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district, that thereafter the board did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the board.

Statement to accompany the application.

If no conflict of names, etc., filed and recorded by Secretary of the Commonwealth.

The Secretary of the Commonwealth shall examine the application and statement, and if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this Commonwealth or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them, and shall record them in an appropriate book of record in his office. If the secretary shall find that the name proposed for the district is identical with that of any other soil conservation district of this Commonwealth or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State Soil Conservation Board, which shall thereupon submit to the Secretary of the Commonwealth a new name for the said district

Where conflict of names, new name to be submitted.

which shall not be subject to such defects. Upon receipt of such new name free of such defects, the Secretary of the Commonwealth shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded as herein provided, the district shall constitute a governmental subdivision of this Commonwealth and a public body corporate and politic. The Secretary of the Commonwealth shall make and issue to the said supervisors a certificate, under the seal of the Commonwealth, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State Soil Conservation Board, as aforesaid, but in no event shall they include an area included within the boundaries of another soil conservation district organized under the provisions of this act.

Certificate issued by the Secretary of the Commonwealth.

G. After six (6) months shall have expired from the date of entry of a determination by the State Soil Conservation Board that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed, as aforesaid, and action taken thereon in accordance with the provisions of this act.

Where petition denied, subsequent petitions.

H. Petitions for including additional territory within an existing district may be filed with the State Soil Conservation Board, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The board shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land occupiers in the area proposed for inclusion shall be less than twenty-five, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote

Including additional territory in the district.

Form of petition.

Case where no referendum need be held.

All occupiers of such additional land eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the Secretary of the Commonwealth. A copy of such certificate duly certified by the secretary shall be admissible in evidence in any such suit, action or proceeding, and shall be proof of the filing and contents thereof.

Certified copy of certificate of Secretary of the Commonwealth admissible in evidence.

Section 6. Election of Three Supervisors for Each District.—Within thirty (30) days after date of issuance

Election of three supervisors of district.

Nominating
petitions.

Signed by 25 or
more occupiers
of land.

Election of
supervisors.

The three candi-
dates who
receive largest
number of votes,
respectively,
elected.

Board to pay
expenses of
election.

The two super-
visors appointed
by the board
must be skilled.

Terms of office.

by the Secretary of the Commonwealth of a certificate of organization of a soil conservation district, nominating petitions may be filed with the State Soil Conservation Board to nominate candidates for supervisors of such district. The board shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the board unless it shall be subscribed by twenty-five (25) or more occupiers of lands lying within the boundaries of such district. Land occupiers may sign more than one such nominating petition to nominate more than one candidate for supervisor. The board shall give due notice of an election to be held for the election of three supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated shall be printed, arranged in the alphabetical order of the surnames, upon ballots with a square before each name, and a direction to insert an X mark in the square before any three names to indicate the voter's preference. All occupiers of lands lying within the district shall be eligible to vote in such election. Only such land occupiers shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The board shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall publish the results thereof.

Section 7. Appointment, Qualifications, and Tenure of Supervisors.—The governing body of the district shall consist of five (5) supervisors, elected or appointed, as provided hereinabove. The two supervisors appointed by the board shall be persons who are by training and experience qualified to perform the specialized, skilled services which will be required of them in the performance of their duties hereunder.

The supervisors shall designate a chairman, and may from time to time change such designation. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of one and two years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring supervisors shall respectively have been selected. A majority of the supervisors shall constitute a quorum, and the concurrence of a majority in any matter within their

duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses including traveling expenses necessarily incurred in the discharge of his duties.

No compensation to supervisors.

Expenses paid.

The supervisors may employ a secretary, technical experts, and such other officers, agents and employes, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The supervisors may call upon the Attorney General of the Commonwealth for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents or employes such powers and duties as they may deem proper. The supervisors shall furnish to the State Soil Conservation Board, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

Employes.

The supervisors shall provide for the execution of surety bonds for all employes and officers who shall be entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the State Soil Conservation Board, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Surety bonds.

Removal of supervisors.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Section 8. Powers of Districts and Supervisors.—A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this Commonwealth and a public body corporate and politic exercising public powers, and such district and the supervisors thereof shall have the following powers in addition to others granted in other sections of this act:

Powers of districts and supervisors.

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed; to publish the results of such surveys, investigations, or research and to disseminate information concerning such preventive and control measures: Provided, however, That in order to

avoid duplication of research activities no district shall initiate any research program except in cooperation with the government of this Commonwealth or any of its agencies or with the United States or any of its agencies.

(2) To conduct demonstrational projects within the district on lands owned or controlled by this Commonwealth or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district, upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved and soil erosion in the form of soil blowing and soil washing may be prevented and controlled.

(3) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of section 2 of this act, on lands owned or controlled by this Commonwealth or any of its agencies with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands.

(4) To cooperate or enter into agreements with and within the limits of appropriations duly made available to it by law; to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of erosion-control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act.

(5) To obtain options upon and to acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act.

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion.

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

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify, in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping* programs, tillage practices, and changes in use of land, and to publish such plans and information and bring them to the attention of occupiers of lands within the district.

(9) To take over by purchase, lease or otherwise, and to administer any soil-conservation, erosion†-control or erosion-prevention project located within its boundaries, undertaken by the United States or any of its agencies, or by this Commonwealth or any of its agencies; to manage as agent of the United States or any of its agencies or of this Commonwealth or any of its agencies any soil-conservation, erosion-control or erosion-prevention project within its boundaries; to act as agent for the United States or any of its agencies or for this Commonwealth or any of its agencies in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise from the United States or any of its agencies or from this Commonwealth or any of its agencies; and to use or expend such moneys, services, materials or other contributions in carrying on its operations.

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments necessary or convenient to the exercise of its powers; to make and from time to time amend and repeal rules and regulations not inconsistent with this act to carry into effect its purposes and powers.

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this Commonwealth or any of its agencies, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agree-

* "cropping" in the original.

† "erosion" in the original.

ments or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

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

Regulations governing land-use.

Section 9. Adoption of Land-use Regulations.—The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for the submission of such regulations to the occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words, "For approval of proposed ordinance No., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition, and a direction to insert an X mark in the square before one or the other of said propositions, as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof, if notice thereof shall have been given substantially as herein provided, and said referendum shall have been fairly conducted.

Such regulations not effective till notice and referendum thereon.

Results of referendum on proposed ordinance.

Informalities shall not invalidate referendum.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least a majority

of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by a majority of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district, and shall be binding and obligatory upon all occupiers of lands within such district.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under this section shall be amended, supplemented or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this section shall not be amended, supplemented or repealed, except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures.

2. Provisions requiring observance of particular methods of cultivation, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees, and grasses, forestation and reforestation.

3. Specifications of cropping programs and tillage practices to be observed.

4. Provisions requiring the retirement from cultivation of highly erosive areas, or of areas on which erosion may not be adequately controlled if cultivation is carried on.

5. Provisions for such other means, measures, operations, and programs, as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district, except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and

Even though approved at the referendum, the supervisors are not required to enact the proposed ordinance.

Those regulations prescribed in ordinances have force and effect of law.

Petition to amend, supplement or repeal regulations.

Referenda not held more often than once in six months

Subjects of regulations.

may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers of lands lying within the district.

Enforcement of land-use regulations.

Section 10. Enforcement of Land-use Regulations.—The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 9 of this act are being observed. Any person, firm, association, copartnership or corporation, who shall violate any of such regulations, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than \$25.00 and not more than \$300.00 for each such offense, at the discretion of the court. Any land occupier who shall sustain damages from any violation of such regulations by any other land occupier may recover damages at law from such other land occupier for such violation.

Penalty for violation.

Injured land occupier may also claim damages.

Section 11. Performance of Work under the Regulations by the Supervisors.—Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 9 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the court of common pleas of the county wherein such particular land is located a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land occupier to observe such regulations and to perform particular work, operations or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations or avoidance within a reasonable time, and to order that if the defendant shall fail to perform the supervisors may go on the land, perform the work or other operations, or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof with interest from the occupier of such land. Upon the presentation of such petition the court shall cause process to be issued against the defendant and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such

Where regulations not being observed, supervisors petition court to require defendant to observe the regulation or permit the supervisors to go on the land and perform the work, and recover costs and expenses thereof.

Process.

Evidence.
Referee.

evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may dismiss the petition, or it may require the defendant to perform the work, operations or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the court and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the conditions of such lands into conformity with the requirements of the regulations, and recover the costs and expenses thereof with interest at the rate of five per centum per annum from the occupier of such lands. In all cases where the person in possession of lands, who shall fail to perform such work, operations or avoidances, shall not be the owner, the owner of such lands shall be joined as party defendant.

Report.

Action of the court.

Where lands occupied by non-owner, the owner may be joined.

The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court, the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses with interest at the rate of five per centum per annum until paid, together with the costs of suit including a reasonable attorney's fee to be fixed by the court. The amount of such judgment shall be a lien upon such lands until fully paid and satisfied, and shall be collected by the supervisors of the district in the same manner and under the same procedure as is provided by law for the collection of municipal claims after they have been reduced to judgment. When such judgment shall be paid or collected, the proceeds shall be paid over to the district within the boundaries of which the lands shall lie.

Judgment.

Section 12. Board of Adjustment.—

A. Where the supervisors of any district organized under the provisions of this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 9 hereof, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of one, two and three years, respectively. The members of each such

Board of adjustment in districts.
Terms.

- board of adjustment shall be appointed by the State Soil Conservation Board, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State Soil Conservation Board and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State Soil Conservation Board and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The members of the board of adjustment shall receive compensation for their services at the rate of six dollars (\$6.00) per diem for time spent on the work of the board, in addition to expenses, including traveling expenses necessarily incurred in the discharge of their duties. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board of adjustment upon the certificate of the chairman of the board.
- Vacancies.**
- Ineligibles.**
- Compensation.**
- Expenses.**
- Rules.** B. The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act and with the provisions of any ordinance adopted pursuant to this section.
- Organization.** The board shall designate a chairman from among its members and may from time to time change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.
- Quorum.**
- Meetings public.**
- Records, public.**
- Petitions for variance of land-use regulations in individual cases.** C. Any land occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are.

located and upon the chairman of the State Soil Conservation Board. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State Soil Conservation Board shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the district who shall object to the authorizing of the variance prayed for, may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent or by attorney. If upon the facts presented at such hearing the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power, by order, to authorize such variance from the terms of the land-use regulations in their application to the lands of the petitioner as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured and substantial justice done.

Hearing by board of adjustment.

Persons may intervene.

Findings of board of adjustment.

D. Any petitioner aggrieved by an order of the board of adjustment granting or denying in whole or in part the relief sought, the supervisors of the district, or any intervening party may obtain a review of such order by the court of common pleas of the county within which is located the land which is affected by such order of the board, by filing in such court a petition praying that the order of the board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the board, and thereupon the party seeking review shall file in the court a transcript of the entire record in the proceedings, certified by the board, including the documents and testimony upon which the order complained of was entered, and the findings, determination, and order of the board. Upon such filing, the court shall cause notice thereof to be served upon the parties, and shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the board. No contention that has not been urged before the board shall be considered by the

Appeal to court of common pleas.

Service.

Transcript of record.

Proceedings.

court, unless the failure or neglect to urge such contentions shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by evidence, shall be conclusive. If any party shall apply to the court for leave to produce additional evidence, and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by evidence, shall be conclusive, and shall file with the court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive, and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the court.

Appeals.

Cooperation
between districts.

Section 13. Cooperation Between Districts.—The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act.

Agencies of the
Commonwealth
to cooperate.

Section 14. Agencies of the Commonwealth to Cooperate.—Agencies of this Commonwealth which shall have jurisdiction over or be charged with the administration of any State-owned lands, and of any county or other governmental subdivision of the Commonwealth which shall have jurisdiction over or be charged with the administration of any county-owned or other publicly owned lands lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to section 9 of this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

Section 15. Discontinuance of Districts.—At any time after five (5) years after the organization of a district under the provisions of this act, any twenty-five (25) occupiers of land lying within the boundaries of such district may file a petition with the State Soil Conservation Board, praying that the operations of the district be terminated and the existence of the district discontinued. The board may conduct such public

Petition to State
Soil Conservation
Board for dis-
continuance of
the district.

meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the board, it shall give due notice of the holding of a referendum, and shall supervise such referendum and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots, upon which the words "For terminating the existence of the (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil conservation district to be here inserted)" shall be printed with a square before each proposition, and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

Proceedings thereon.

Referendum.

Ballot.

Informalities shall not invalidate, where there is substantial performance.

The State Soil Conservation Board shall publish the result of such referendum, and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the board shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the board shall determine that the continued operation of such district is not administratively practicable and feasible it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination, the board shall give due regard and weight to the attitudes of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in section 2 of this act: Provided, however, That the board shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the refer-

Publish results of referendum.

Determination by board.

Proviso.

endum shall have been cast in favor of the continuance of such district.

Supervisors to terminate the affairs of the district.

Application to Secretary of the Commonwealth for discontinuance, with certificate of State Soil Conservation Board.

Certificate of dissolution.

Effect of issuance of certificate of dissolution.

Not to present petition for dissolution of district more often than once in five years.

Upon receipt from the State Soil Conservation Board of a certification that the board has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction, and shall pay over the proceeds of such sale into the State Treasury through the Department of Revenue. The supervisors shall thereupon file an application, duly verified, with the Secretary of the Commonwealth for the discontinuance of such district, and shall transmit with such application the certificate of the State Soil Conservation Board setting forth the determination of the board that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of the Commonwealth shall issue to the supervisors a certificate of dissolution, and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into to which the district or supervisors are parties shall remain in force and effect for the period provided in such contracts. The State Soil Conservation Board shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts, and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent, or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of section 11 of this act nor the pendency of any action instituted under the provisions of such section, and the board shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State Soil Conservation Board shall not entertain petitions for the discontinuance of any certain district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions, in accordance with the provisions of this act, more often than once in five (5) years.

Section 16. Appropriations.—The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby specifically appropriated out of the General Fund to the State Soil Conservation Board for its use in administering the provisions of this act during the two fiscal years beginning June first, one thousand nine hundred thirty-seven and ending May thirty-first, one thousand nine hundred thirty-nine.

\$10,000 appropriated for biennium.

Section 17. Allocations to the Districts.—The State Soil Conservation Board shall make allocations from time to time, out of the moneys appropriated to it, among the several soil conservation districts organized in accordance with the provisions of this act, for the purposes provided in the act, on the basis of the number of acres affected by the ordinances and regulations of the district supervisors, or on any other equitable basis to be established by the board, and payments shall be made under such system of requisition and accounting as the Governor, Auditor General, and State Treasurer shall determine.

Allocations by State Soil Conservation Board to the districts for authorized expenditures.

The moneys so allocated to a district shall be available for expenditures in that district authorized by the provisions of this act, as the State Soil Conservation Board shall determine.

Section 18. Separability Clause.—If any provision of this act or the application of any provision to any person or circumstances is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Parts of this act invalidated shall not affect remainder of the act.

Section 19. Inconsistency with Other Acts.—In so far as any of the provisions of this act are inconsistent with the provisions of any other law the provisions of this act shall be controlling.

Where inconsistent with other laws this act controls.

Section 20. Effective Date.—This act shall become effective immediately upon its final enactment.

When effective.

APPROVED—The 2d day of July, A. D. 1937.

GEORGE H. EARLE

No. 558

AN ACT

Providing for the service of process in civil actions on nonresident owners, tenants, or users, of real estate located within the Commonwealth of Pennsylvania, and the footways and curbs adjacent thereto, or any such resident of this Commonwealth who shall subsequently become a nonresident, and making the ownership, possession, occupancy, control, maintenance, and use of such real estate, footways, and curbs, the equivalent of the appointment of the Secretary of the Commonwealth of Pennsylvania as the agent of said nonresident, upon whom civil service may be served; and providing for further notice to the defendants in any such action.