

No. 361

AN ACT

HB 1487

Amending the act of May 15, 1945 (P.L.547), entitled, as amended, "An act relating to soil conservation and soil erosion, and land use practices contributing to soil wastage and soil erosion; providing for the organization of the various counties into soil and water conservation districts; the appointment of their officers and employes; and prescribing their powers and duties; creating the State Soil and Water Conservation Commission in the Department of Agriculture and fixing its powers and duties relative to the enforcement of this act; providing financial assistance to such soil and water conservation districts; and authorizing county commissioners to make appropriations thereto; providing for disposition and operation of existing districts; and repealing existing laws," changing the names to State Conservation Commission and conservation districts, transferring the commission to the Department of Environmental Resources, providing for the composition, compensation and term of office of the commission, imposing powers and duties thereon, and further providing for the powers, duties, compensation and terms of office of the district directors, and making editorial corrections.

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

Section 1. The title, act of May 15, 1945 (P.L.547), known as the "Soil Conservation Law," amended August 8, 1963 (P.L.598), is amended to read:

AN ACT

Relating to soil conservation and soil erosion, and land use practices contributing to soil wastage and soil erosion; providing for the organization of the various counties into [soil and water] conservation districts; the appointment of their officers and employes; and prescribing their powers and duties; creating the State [Soil and Water] Conservation Commission in the Department of [Agriculture] *Environmental Resources* and fixing its powers and duties relative to the enforcement of this act; providing financial assistance to such [soil and water] conservation districts; and authorizing county commissioners to make appropriations thereto; providing for disposition and operation of existing districts; and repealing existing laws.

Section 2. Section 2 of the act is amended to read:

Section 2. Declaration of Policy.—It is hereby declared to be the policy of the Commonwealth to provide for the conservation of the soil [and soil], *water and related* resources of this Commonwealth, and for the control and prevention of soil erosion, and thereby to preserve natural resources; assist in the control of floods; prevent impairment of dams and reservoirs; assist in maintaining the navigability of rivers and harbors; preserve wildlife; preserve the tax base; protect public lands; and protect and promote the health, safety and general welfare of the people of the Commonwealth.

Section 3. Section 3 of the act, amended August 8, 1963 (P.L.598) and December 19, 1967 (P.L.860), is amended to read:

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

- (a) “Commonwealth” means the Commonwealth of Pennsylvania.
- (b) “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.
- (c) “District” or [**Soil and water**] “conservation district” means any county in the Commonwealth whose board of county commissioners has, by resolution, declared said county to be a [**soil and water**] conservation district.
- (d) “County board” means the board of county commissioners of any county within the Commonwealth.
- (e) “Directors” or “Board of directors” means the governing body of a [**soil and water**] conservation district appointed under the provision of this act.
- (f) “Commission” means the State [**Soil and Water**] Conservation Commission created by this act.
- (g) “United States” or “Agency of the United States” includes the United States Department of Agriculture and any other agency or instrumentality, corporate or otherwise, of the government of the United States of America.
- (h) “Government” or “governmental” includes the government of this Commonwealth and the government of the United States.
- (i) “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 [**soil and water**] conservation district, organized under the provisions of this act, whether as owner, lessee, renter, tenant or otherwise.
- (j) “Cooperating organization” is any organization approved by the commission to assist in carrying out the provisions of this act.

Section 4. Subsections (1), (3) and (4) of section 4 of the act, amended July 25, 1963 (P.L.316), August 8, 1963 (P.L.598) and December 19, 1967 (P.L.860), are amended and subsection (4) is also amended by adding a clause to read:

Section 4. State [**Soil and Water**] Conservation Commission.— (1) There is hereby created in the Department of [**Agriculture**] *Environmental Resources* the State [**Soil and Water**] Conservation Commission, which shall be a departmental administrative commission with all the powers and duties generally vested in, and imposed upon, such commissions by the Administrative Code of one thousand nine hundred twenty-nine and its amendments. The commission shall consist of the Secretary of [**Agriculture**] *Environmental Resources*, who shall be the

chairman, the Secretary of **[Forests and Waters] Agriculture**, the Dean of the College of Agriculture of The Pennsylvania State University and four farmer members, who shall be farmers, to be appointed by the Governor from a list of eight nominees submitted by the association known as "Pennsylvania State Council of Farm Organizations," and "*The Pennsylvania State Association of Conservation District Directors, Inc.*" *Each association shall nominate one candidate for each farmer member vacancy.* Two urban members of the commission shall also be appointed to the commission by the Governor. In the event, however, that said association shall fail to make and submit to the Governor, nominations to fill vacancies, the Governor may appoint any citizens of Pennsylvania to fill such vacancies. The State Conservationist of the Soil Conservation Service, United States Department of Agriculture and the Director of Agriculture and Home Economics Extension of The Pennsylvania State University shall be associate, non-voting members of the commission. The commission shall keep a record of its official actions, and may perform such acts and promulgate such rules and regulations as may be necessary, and employ such personnel as needed for the execution of its function under this act. A majority of the voting members shall constitute a quorum and all decisions of the commission shall require a concurrence of the voting members of the commission. *At the last regular meeting of the commission in the calendar year, a vice-chairman shall be elected by the members of the commission and shall serve in that capacity for the ensuing year.*

* * *

(3) The farmer and urban members of the commission shall be appointed for a period of four years and shall hold office until their successors have been appointed and have qualified. The four farmer members' terms shall be so staggered that *no more than* one member's term shall expire each year while the two urban members' terms shall be so staggered that *no more than* one member's term shall expire every second year. At the expiration of their terms of office, or in the event of vacancies through death, resignation or otherwise, new farmer or urban members shall be appointed **[in the manner set forth in paragraph one of this section]** *to fill the unexpired term of the members they are replacing.* A majority of the commission shall constitute a quorum and all decisions shall require the concurrence of a majority of the commission. All members of the commission shall be entitled to **[their actual and necessary]** *fifty dollars (\$50) per diem plus* expenses including traveling expenses incurred in the discharge of their duties. The commission shall provide for the execution of surety bonds for all employes and officers who shall be entrusted with funds or property of the commission and shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

(4) In addition to the duties and powers herein conferred upon the commission, it shall have the following duties and powers:

(a) To offer such assistance as may be appropriate to the directors of **[soil and water]** conservation districts;

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

(c) To approve and coordinate the programs of the several **[soil and water]** conservation districts or projects; to apportion among the several districts or to any agency of the Commonwealth, the United States or cooperating organizations any funds allotted from State or Federal *or other* sources; and to be responsible for the expenditures of such funds by the districts;

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

(e) To disseminate information concerning the activities and programs of the **[soil and water]** conservation districts and to encourage the formation of such districts in areas where their organization is desirable;

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

(g) To designate the county-wide organizations **[whose officers or delegates]** that may act in nominating **[farmers or other]** persons for appointment as directors, as provided in section six of this act. Such designations may be changed from time to time as conditions may warrant;

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

(i) *To approve applications for projects and recommend priorities for planning for applications under the Resource and Conservation and Development Program authorized by Public Law 87-703, the Food and Agriculture Act of 1962, as amended.*

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Section 5. Section 5 of the act, amended August 8, 1963 (P.L.598) and December 19, 1967 (P.L.860), is amended to read:

Section 5. Creation of **[Soil and Water]** Conservation Districts.—(1) When the board of county commissioners of any county shall determine, in the manner hereinafter provided, that conservation of soil and water, *and related* resources and control and prevention of soil erosion are problems of public concern in the county, and that a substantial proportion of the rural land owners of the county favor such a resolution, it shall be lawful for the said board of county commissioners, by a resolution adopted at any regular or special meeting of the board, to declare the county to be a **[soil and water]** conservation district, for the

purpose of effectuating the legislative policy announced in section two. These determinations may be made through petitions, hearings, referenda or by any other means which the board of county commissioners deems appropriate.

(2) Such a **[soil and water conservation]** district, upon its creation, shall constitute a public body corporate and politic exercising public powers of the Commonwealth as an agency thereof.

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

Section 6. Sections 6 and 7 of the act, amended December 19, 1967 (P.L.860), are amended to read:

Section 6. Designation of District Directors.—When a county has been declared a **[soil and water]** conservation district, a board of directors, consisting of seven members, shall be appointed by the board of county commissioners. This board of directors shall consist of one member of the board of county commissioners, **[four practical farmers and two urban directors;]** *not more than four or less than two farmers, and not less than two or more than four urban members, but the total number of directors shall always be seven. The composition of the board shall be determined by the county commissioners and approved by the State Conservation Commission before such change shall become effective;* the farmer and urban members to be appointed shall be selected from a list containing at least double the number of directors to be appointed, and such list is to be submitted by each of the county-wide organizations designated by the State **[Soil and Water]** Conservation Commission. Upon receipt of notice from the State **[Soil and Water]** Conservation Commission of the organizations to be entitled to make such nominations, and having secured nomination lists, the board of county commissioners shall appoint the proper number of directors.

Section 7. Appointment; Qualifications; Compensation; and Tenure of Directors.—The director appointed from the board of county commissioners shall be appointed annually by the board of county commissioners. **[The first four farmer directors appointed, other than the director appointed from the board of county commissioners and the urban directors, shall be designated to serve for terms of one, two, three and four years, respectively. The first two urban directors appointed shall be designated to serve for terms of two and four years, respectively. Thereafter each director shall serve for four years.]** *The term of office for farmer and urban directors will be four years, except that directors shall be appointed so that no more than two directors' terms shall expire in one year.* A director shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired terms. Successors to fill unexpired terms or for full terms shall be appointed by the county commissioners from a list containing at least double the number of directors to be appointed, such

list to be composed of nominations submitted in writing by a qualified officer of each of the organizations designated by the State **[Soil and Water]** Conservation Commission. The final list of nominations shall be placed on file by the county commissioners and shall be open to public inspection. In filling unexpired terms, the county commissioners may make appointments from any list prepared in the above manner that has been compiled within the twelve months preceding such appointments.

The director appointed from the board of county commissioners shall receive no additional compensation but shall receive traveling expenses as allowed as a member of the board of county commissioners. The other members of the board of directors shall serve without pay, but may be reimbursed for **[traveling] actual and necessary** expenses incurred while engaged in the performance of their official duties, provided funds are made available by the board of county commissioners or by the State **[Soil and Water]** Conservation Commission for such purpose, and under such terms and conditions as the county board or the commission, whichever has provided the funds, shall determine.

Section 7. Subsection (1) of section 8 of the act, amended August 1, 1963 (P.L.445) and August 8, 1963 (P.L.598), is amended and the section is also amended by adding a subsection to read:

Section 8. Organization of Directors.—(1) The board of directors of the district shall be the governing body thereof. **[They shall designate a chairman and may from time to time change such designee.] At their first meeting in the calendar year they shall elect a chairman and vice-chairman and elect or appoint a secretary and/or treasurer and such other officers deemed necessary. A majority of the voting members shall constitute a quorum.** The directors may delegate to their chairman, or to one or more directors, such powers and duties as they shall deem proper. The directors shall furnish to the State **[Soil and Water]** Conservation Commission, upon request, copies of such rules, orders, contracts, forms and other documents as they shall adopt or employ and such other information concerning their activities as the commission may require in the performance of its duties under this act. They may likewise appoint a secretary and/or treasurer who need not be a member of the board of directors.

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(4) A director absent from regular district meeting three or more times during a year without due cause may be replaced by the county commissioners.

Section 8. The first paragraph and clauses (1), (8) and (13) of section 9 of the act, amended August 1, 1963 (P.L.445) and August 8, 1963 (P.L.598), are amended to read:

Section 9. Powers of Districts and Directors.—The directors of a **[soil and water]** conservation district shall have the following powers in addition to those granted in other sections of this act:

(1) To conduct surveys, investigations and research relating to the character of soil erosion and the preventive control measures needed to publish the results of such surveys, investigation or research, and disseminate information concerning such preventive and control measures after securing approval from the State [Soil and Water] Conservation Commission: Provided, however, That in order to avoid duplication of research activities no district shall initiate any research program except in cooperation with The Pennsylvania State University College of Agriculture or any agency approved by the State [Soil and Water] Conservation Commission;

* * *

(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: Provided, however, That in order to avoid duplication of educational activities, such plans and information shall be published in cooperation with The Pennsylvania State University College of Agriculture, or with the approval of the State [Soil and Water] Conservation Commission;

* * *

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

Section 9. Section 11 of the act, amended August 8, 1963 (P.L.598), is amended to read:

Section 11. State Agencies to Cooperate.—Agencies of this Commonwealth which shall have jurisdiction over or be charged with the administration of State highways, or any State-owned lands and agencies of any county or other governmental subdivision of the State, 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, may cooperate with the directors of such districts in the effectuation of programs and operations undertaken by the board of directors under the provisions of this act. **[All soil conservation districts created in the past under the provisions of this act shall henceforth be named soil and water conservation districts.]**

Section 10. Subsections (1), (2) and (3) of section 12 of the act, amended August 1, 1963 (P.L.445) and August 8, 1963 (P.L.598), are amended to read:

Section 12. Discontinuance of Districts.—(1) The county board of any county in which, by resolution, such county was declared to be a **[soil and water]** conservation district, may at any time after five years from the passage of said resolution and after determining that a substantial proportion of the **[rural]** land occupiers of the district so desire, and upon approval by the commission, repeal said resolution at a regular or special meeting of said board. This determination may be made through hearings, petitions, referenda or any other means which the county board deems appropriate.

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

(3) Upon the repeal by the board of county commissioners of the resolution declaring the county to be a **[soil and water]** conservation district, the directors shall, at public auction, dispose of all property belonging to the district as soon as said property is no longer needed by the district to fulfill any existing contracts, and shall forthwith pay over the proceeds of such sale, less the necessary costs of the sale, into the county treasury. The directors shall, at least ten days prior to holding such public auction, notify the commission of the property proposed to be sold thereat, and after such sale shall render to the board of county commissioners and to the commission a report of such sale specifying the property sold, the amount received therefor and the disposition of the proceeds. Such report of the sale shall also be accompanied by a list of the remaining property of the district still undisposed of.

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Section 11. Sections 13 and 14 of the act, amended August 8, 1963 (P.L.598), are amended to read:

Section 13. County Commissioners' Appropriations.—The county commissioners of the several counties of this Commonwealth are hereby authorized to appropriate annually out of the current revenues of the county, moneys to the **[soil and water]** conservation district, properly organized and functioning under the provisions of this act, and located within the county. The amount appropriated shall be determined as in the case of county appropriations, or appropriations of cities of the first class, as the case may be.

Section 14. State Appropriations.—The General Assembly of the Commonwealth shall appropriate from time to time as may be necessary, moneys out of the General Fund to the State **[Soil and Water]** Conservation

Commission for its use in administering the provisions of this act.

APPROVED—The 29th day of December, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 361.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T".

Secretary of the Commonwealth.