

No. 1982-110

AN ACT

HB 936

Amending the act of December 5, 1972 (P.L.1277, No.283), entitled "An act authorizing the establishment of the Pennsylvania Scenic Rivers System; defining certain terms relating thereto; imposing certain powers and duties on the Department of Environmental Resources and the secretary thereof and authorizing the use of the power of eminent domain in certain cases," removing provisions relating to eminent domain and adding an additional classification known as pastoral rivers.

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

Section 1. The title, sections 3, 4, 5, 6, 7, 8 and 9, act of December 5, 1972 (P.L.1277, No.283), known as the "Pennsylvania Scenic Rivers Act," are amended to read:

AN ACT

Authorizing the establishment of the Pennsylvania Scenic Rivers System; defining certain terms relating thereto; imposing certain powers and duties on the Department of Environmental Resources and the secretary thereof **[and authorizing the use of the power of eminent domain in certain cases].**

Section 3. Definitions.—As used in this act:

(1) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(2) "Free-flowing" as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway except in segments classified as modified recreational rivers. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the Pennsylvania Scenic Rivers System shall not automatically bar its consideration for such inclusion: Provided, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the Pennsylvania Scenic Rivers System.

[(3) "Scenic easement" means the right to control the use of land for the purpose of protecting the scenic values of the river valley, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.]

Section 4. Pennsylvania Scenic Rivers System.—(a) The Pennsylvania Scenic Rivers System shall comprise rivers:

(1) That are recommended as wild, scenic, *pastoral*, recreational, or modified recreational rivers by the Department of Environmental Resources; and

(2) That are authorized for inclusion therein by law.

(b) A wild, scenic, *pastoral*, recreational, or modified recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 2 of this act. Every such river shall be classified, designated and administered as one of the following:

(1) Wild river areas - those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted.

(2) Scenic river areas - those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and undeveloped, but accessible in places by roads.

(3) *Pastoral rivers - those rivers or sections of rivers which are free of impoundments excepting historic or restored mill dams. Diversions or withdrawals may exist to support agricultural activities such as agricultural ponds. The shorelines or watersheds may support a full range of farm or farm-related activities, so long as these activities do not conflict with the pastoral nature of the landscape.*

[(3)] (4) Recreational rivers - those rivers or sections of rivers that are readily accessible, that may have some development along their shorelines and may have undergone some impoundment or diversion in the past.

[(4)] (5) Modified recreational rivers - those rivers or sections of rivers in which the flow may be regulated by control devices located upstream. Low dams are permitted in the reach so long as they do not increase the river beyond bank-full width. These reaches are used for human activities which do not substantially interfere with public use of the streams or the enjoyment of their surroundings.

Section 5. Potential Designated Rivers as Components of the Pennsylvania Scenic Rivers System; Public Hearings.—(a) The Department of Environmental Resources shall study, conduct public hearings as provided in section 5 (b) of this act, and from time to time submit to the Governor and to the General Assembly proposals for the designation of rivers or sections of rivers as components of the Pennsylvania Scenic Rivers System, as set out in section 4 of this act. *In addition to the public hearings provided for in subsection (b) the Department of Environmental Resources shall conduct prior to undertaking any study an informational public meeting in the county or counties where the study is to be made at which meeting the Department of Environmental Resources shall announce the planned study, explain the techniques to be employed in such study and describe the scope of such study. Notice of the informational public meeting shall be given at least three weeks before in a newspaper of general circulation in the county, or in the case of land located in more than one county, in a newspaper of general circulation in each county. Notice shall also be given three weeks in advance by first class mail to each county, city, borough, incorporated town or township wherein is located land involved in the study.* Each proposal shall specify

the category of the proposed river segment and shall be accompanied by a detailed report on all the factors involved as well as a transcript of the public hearings conducted.

(b) A public hearing shall be held in the county where the land is situate, at which hearing the department shall set forth the area to be **[taken] designated** and its proposed **[use] classification**. If the land is located in more than one county such hearing shall be held in every county wherein the land is situate. Notice of the public hearing shall be given at least three weeks before in a newspaper of general circulation in the county, or in the case of land located in more than one county, in a newspaper of general circulation in each county. Notice shall also be given three weeks in advance by certified mail to **[the] those** owners of the land involved, *as shown on county tax assessment records*.

Section 6. **[Land Acquisition.—(a) The Department of Environmental Resources is authorized to acquire scenic easements within the authorized boundaries of any component of the Pennsylvania Scenic Rivers System designated by law. The department shall have the power of condemnation in accordance with the provisions of the act of June 22, 1964 (P.L.84), known as the “Eminent Domain Code” when necessary to acquire scenic easements or other easements as are reasonably necessary to give the public access to the river.**

(b) Cooperation.—The head of any State department or agency which has administrative jurisdiction over any lands or interests in land within the authorized boundaries of any State-administered component of the Pennsylvania Scenic Rivers System shall cooperate with the Department of Environmental Resources so as to implement the policies and practices of this act.

(c) Section 7. Acceptance of Gifts.—The Department of Environmental Resources is authorized to accept donations of lands and interests in land, funds, and other property for use in connection with the administration of Pennsylvania Scenic Rivers System.

Section **[7] 8. National Wild and Scenic Rivers Act.—**The Secretary of Environmental Resources is directed to encourage and assist any Federal studies for inclusion of Pennsylvania rivers in a national scenic rivers system. The secretary may enter into written cooperative agreements for joint Federal-State administration of a Pennsylvania component of any national scenic rivers system, provided such agreements for the administration of land and water uses are not less restrictive than those set forth in this act.

Section **[8] 9. Easements and Rights-of-way.—**The Department of Environmental Resources may grant easements and rights-of-way upon, over, under, across, or through any component of the Pennsylvania Scenic Rivers System in accordance with the laws and regulations applicable to the department: Provided, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purposes of this act.

Section [9] 10. **Effective Date.**—This act shall take effect immediately.

Section 2. This act shall take effect in 60 days.

APPROVED—The 7th day of May, A. D. 1982.

DICK THORNBURGH