

No. 1993-11

AN ACT

SB 298

Establishing the Agricultural Advisory Board in the Department of Environmental Resources and prescribing its powers; and providing for review by the board of certain proposed rules and regulations.

The General Assembly finds and declares as follows:

(1) Agriculture is this Commonwealth's number one industry. The citizens of this Commonwealth have, through their vote, affirmed the preservation of agriculture as a vital public policy. The family farmers of this Commonwealth have a deep and rich history of responsible land stewardship. This Commonwealth's first environmentalists were farmers. State agencies must be more mindful of the impact that certain policies, rules and regulations impose upon the family farmers of this Commonwealth.

(2) The intent of this act is to ensure that the agricultural impact of certain Commonwealth policies, rules and regulations receive due consideration and to ensure that the agricultural community and agricultural experts have the opportunity to provide comment regarding these policies, rules and regulations.

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

Section 1. Short title.

This act shall be known and may be cited as the Department of Environmental Resources Agricultural Advisory Board Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agriculture." Normal farming practices or innovative techniques used in the production and preparation for market of any crop or commodity included within the definition of "crops, livestock and livestock products" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

"Board." The Agricultural Advisory Board established in section 3.

"Department." The Department of Environmental Resources of the Commonwealth.

"Normal farming practices." The customary and generally accepted activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of any crop or commodity included within the definition of "crops, livestock and livestock

products" in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

"Secretary." The Secretary of Environmental Resources of the Commonwealth.

"Sustainable agriculture." An integrated system of plant and animal production practices as defined by the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law 101-624, 104 Stat. 3616).

Section 3. Establishment of board.

(a) Creation.—There is hereby established in the Department of Environmental Resources the Agricultural Advisory Board.

(b) Members.—The following persons shall comprise the board:

(1) Representatives of the Pennsylvania Farmers Association, the Pennsylvania State Grange and the Pennsylvania Farmers Union. Each of these organizations shall annually name one person to represent it under this paragraph.

(2) A dairy producer, a livestock producer, a poultry producer, a grain producer, a fruit producer, a vegetable producer, a representative of the ornamental horticultural industry, a producer engaged in sustainable agriculture and a representative from the agri-business industry. The Governor shall appoint these representatives to sit for a three-year term. Representatives appointed under this paragraph must receive a majority of their gross income from the activity which they represent.

(3) Representatives of the Pennsylvania Association of Conservation District Directors and The Pennsylvania State University. Each of these organizations shall annually name one person to represent it under this paragraph.

(4) Representatives of the Federal Soil Conservation Service and the Federal Agricultural Stabilization and Conservation Service. Each of these organizations shall annually name one person to represent it under this paragraph ex officio.

(5) Representatives of the Department of Agriculture and the Department of Environmental Resources. Each department shall annually name one person to represent it under this paragraph ex officio.

(6) The chairman and the minority chairman of the Agriculture and Rural Affairs Committee of the Senate or their designees and the chairman and the minority chairman of the Agriculture and Rural Affairs Committee of the House of Representatives or their designees to represent the General Assembly ex officio.

(c) Chairman.—The members designated under subsection (b)(1) shall annually rotate as board chairman.

(d) Staff.—The Department of Environmental Resources shall furnish the board with administrative support.

Section 4. Powers of board.

(a) General rule.—The board shall have the following powers:

(1) Provide advice and expertise to the secretary regarding the nature

of agriculture in this Commonwealth.

(2) Assist the secretary and provide written comments on new departmental policy that will impact upon agriculture in this Commonwealth.

(3) Assist the secretary and provide comment on regulatory proposals pursuant to section 5.

(4) Provide comment to the secretary regarding existing departmental policy and regulations affecting agriculture in this Commonwealth.

(b) Exempt regulations.—Regulations subject to review by the seasonal farm labor committee under the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act, are exempt from review under subsection (a).

Section 5. Review of regulations.

(a) Notice to board.—The department shall notify the board of the development of any regulatory proposal which would regulate agriculture as early as possible but not less than 120 days prior to the date the Environmental Quality Board meets to initially consider any proposed rulemaking resulting from the regulatory proposal.

(b) Meeting and consultation with board.—At the request of the board, if the request is made within 30 days from the date of receipt of the notice required by subsection (a), the department shall meet and consult with the board in the formulation of any such regulatory proposal, and thereafter the board may provide the department with written comments thereon.

(c) Inclusion of comments with proposed rulemaking.—The department shall include any written comments of the board, received prior to the department's submission of a proposed rulemaking package to the Environmental Quality Board, as part of its submission to the Environmental Quality Board.

(d) Exceptions.—The requirements of this section shall not apply to regulations with mandatory statutory deadlines, to regulations required to be adopted by court order, to emergency regulations, to final regulations adopted pursuant to section 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, or where interim regulations are otherwise authorized by statute. The department shall advise the board as soon as possible of the development of regulations identified in this subsection which would regulate agriculture.

Section 6. Effective date.

This act shall take effect in 60 days.

APPROVED—The 20th day of May, A.D. 1993.

ROBERT P. CASEY