
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 935 Session of
2023

INTRODUCED BY PICKETT, CAUSER, DEASY, HAMM, JAMES, R. MACKENZIE,
MARSHALL, OWLETT AND ZIMMERMAN, APRIL 17, 2023

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
APRIL 17, 2023

AN ACT

1 Amending the act of November 26, 1978 (P.L.1375, No.325),
2 entitled "An act providing for the regulation and safety of
3 dams and reservoirs, water obstructions and encroachments;
4 consolidating and clarifying the programs of the Department
5 of Environmental Resources and Navigation Commission for the
6 Delaware River; establishing penalties and repealing certain
7 acts," providing for county conservation district stream
8 reconstruction emergency permit authorizations.

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

11 Section 1. The act of November 26, 1978 (P.L.1375, No.325),
12 known as the Dam Safety and Encroachments Act, is amended by
13 adding a section to read:

14 Section 17.1. County conservation district stream
15 reconstruction emergency permit authorizations.

16 (a) A county conservation district with an approved
17 delegation agreement in accordance with sections 6 and 17 and
18 sections 9(11) and 11(2) of the act of May 15, 1945 (P.L.547,
19 No.217), known as the "Conservation District Law," to administer
20 certain activities under 25 Pa. Code Ch. 105 (relating to dam

1 safety and waterway management), may request an amendment to the
2 approved delegation agreement for the Water Obstruction and
3 Encroachment Program from the department for the purposes
4 specified under this section.

5 (b) As a county stream reconstruction program authorized by
6 the department under this subsection, a county conservation
7 district may propose methodologies for stream reconstruction
8 activities in response to or in anticipation of significant
9 flood events to restore the natural regimen and ecology of
10 watercourses using appropriate methodologies that are based on
11 current scientific principles and practices and are in
12 accordance with 25 Pa. Code Ch. 105. The department shall review
13 a proposed county stream reconstruction program under this
14 subsection for conformance with current scientific principles
15 and practices and 25 Pa. Code Ch. 105. The department shall
16 provide a record of decision on the proposed county stream
17 reconstruction program to the county conservation district,
18 including a detailed technical review of the proposed county
19 stream reconstruction program.

20 (c) Upon approval of the county stream reconstruction
21 program under subsection (b) by the department, the county
22 conservation district may request an amendment to the county
23 conservation district's approved delegation agreement for the
24 Water Obstruction and Encroachment Program from the department
25 which authorizes the county conservation district to issue
26 emergency permits for stream reconstruction. The department may
27 not unreasonably withhold the authorization of the amendment.
28 The authority delegated under this subsection for the county
29 conservation district to issue emergency permits shall only
30 include emergency stream reconstruction in accordance with the

1 approved county stream reconstruction program under subsection
2 (b), including activities which may prevent a flooding emergency
3 event in the future.

4 (d) The county conservation district may authorize stream
5 reconstruction activities under an emergency permit in
6 accordance with the approved county stream reconstruction
7 program under subsection (b) and the final amended and approved
8 delegation agreement for the Water Obstruction and Encroachment
9 Program for the county.

10 (e) The department shall develop a stream reconstruction
11 emergency permit form for use in accordance with this section.

12 (f) The department shall retain the duty to authorize
13 emergency permits for all other waterway obstruction and
14 encroachment activities under 25 Pa. Code Ch. 105 where
15 conditions threaten public safety and the environment.

16 (g) The department shall transmit a notice of each amendment
17 to an approved delegation agreement under this section to the
18 Legislative Reference Bureau for publication in the Pennsylvania
19 Bulletin.

20 (h) Notwithstanding any provision of the "Conservation
21 District Law" or 2 Pa.C.S. Chs. 5 Subch. B (relating to practice
22 and procedure of local agencies) and 7 Subch. B (relating to
23 judicial review of local agency action), known as the "Local
24 Agency Law," a person aggrieved by an action of a county
25 conservation district under an approved delegation agreement
26 which is amended under this section may appeal such action to
27 the department within 30 days after notice of such action. A
28 person aggrieved by an action of the department regarding the
29 initial appeal under this subsection may appeal such action to
30 the Environmental Hearing Board in accordance with section 24.

1 (i) Within 60 days of the effective date of this section,
2 the department shall provide notice to each county conservation
3 district of the availability of a county stream reconstruction
4 program under this section.

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