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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1272 Session of  
2020

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REFERRED TO AGRICULTURE AND RURAL AFFAIRS, SEPTEMBER 18, 2020

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AN ACT

1 Providing for the Agricultural Conservation Assistance Program  
2 and imposing powers and duties on the State Conservation  
3 Commission.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Agricultural  
8 Conservation Assistance Program Act.

9 Section 2. Definitions.

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

13 "Agricultural erosion and sedimentation control plan." A  
14 site-specific plan identifying BMPs to minimize accelerated  
15 erosion and sedimentation from agricultural runoff required by  
16 25 Pa. Code Ch. 102 (relating to erosion and sediment control).

17 "Agricultural operation." The management and use of farming  
18 resources for production of crops, livestock or poultry.

1 "Agriculturally impaired stream miles." Stream miles that  
2 are designated impaired due to the identified source being  
3 agriculture as defined by the 2020 Pennsylvania Integrated Water  
4 Quality Monitoring and Assessment Report by the Department of  
5 Environmental Protection.

6 "Animal concentration areas." The following:

7 (i) Barnyards, feedlots, loafing areas, exercise  
8 lots or other similar animal confinement areas that will  
9 not maintain a growing crop or where deposited manure  
10 nitrogen is in excess of crop needs.

11 (ii) The term does not include:

12 (A) Areas managed as pastures or other cropland.

13 (B) Pasture access ways, if they do not cause  
14 direct flow of nutrients to surface water or  
15 groundwater.

16 "Best management practice" or "BMP." A practice or  
17 combination of practices determined by the commission or United  
18 States Department of Agriculture Natural Resources Conservation  
19 Service to be effective and practical, considering  
20 technological, economic and institutional factors, to manage  
21 nutrients and sediment to protect surface water and groundwater.

22 "Commission." The State Conservation Commission.

23 "Conservation district." A county conservation district  
24 established under the act of May 15, 1945 (P.L.547, No.217),  
25 known as the Conservation District Law.

26 "Conservation plan." A plan that identifies conservation  
27 practices and includes site-specific BMPs for agricultural  
28 plowing or tilling activities and animal heavy-use areas.

29 "Cropland acres." The acres of land used to produce adapted  
30 crops for harvest, which includes both cultivated and

1 noncultivated crops and areas managed for forage production that  
2 are harvested by livestock, or a combination of livestock and  
3 mechanical harvesting.

4 "Erosion." The natural process by which the surface of the  
5 land is worn away by water, wind or chemical action.

6 "Livestock." Animals raised, stabled, fed or maintained on  
7 an agricultural operation with the purpose of generating income  
8 or providing work, recreation or transportation. The term does  
9 not include aquatic species.

10 "Manure management plan." A plan developed and implemented  
11 in accordance with 25 Pa. Code Ch. 91 (relating to general  
12 provisions).

13 "Nutrient." A substance or recognized plant nutrient,  
14 element or compound which is used or sold for its plant  
15 nutritive content or its claimed nutritive value. The term  
16 includes, but is not limited to, livestock and poultry manures,  
17 compost as fertilizer, commercially manufactured chemical  
18 fertilizers, biosolids or combinations thereof.

19 "Nutrient management plan." A written site-specific plan  
20 which incorporates BMPs to manage the use of plant nutrients for  
21 crop production and water quality protection consistent with the  
22 criteria established in 3 Pa.C.S. §§ 504 (relating to powers and  
23 duties of commission) and 506 (relating to nutrient management  
24 plans).

25 "Poultry." Birds raised, fed or maintained on an  
26 agricultural operation with the purpose of generating income.

27 "Program." The Agricultural Conservation Assistance Program  
28 established under section 4(a).

29 "Sediment." Soils or other erodible materials transported by  
30 storm water as a product of erosion.

1 "Surface waters." Perennial and intermittent streams,  
2 rivers, lakes, reservoirs, ponds, wetlands, springs, natural  
3 seeps and estuaries. The term does not include water at  
4 facilities approved for wastewater treatment such as wastewater  
5 treatment impoundments, cooling water ponds and constructed  
6 wetlands used as part of a wastewater treatment process.

7 "Technical assistance." Advice, technical expertise,  
8 information, training and tools provided to a landowner,  
9 commission, conservation district or others regarding program  
10 implementation, including, but not limited to, the proper  
11 planning, design and installation of best management practices.

12 "Watershed implementation plan." A plan created to achieve  
13 water quality improvement goals within a watershed of this  
14 Commonwealth, including, but not limited to, Chesapeake Bay  
15 Watershed implementation plans, county action plans or other  
16 watershed-based restoration and implementation plans.

17 Section 3. Statement of purpose.

18 The purpose of this act is to establish a program to provide  
19 financial and technical assistance for the implementation of  
20 best management practices on agricultural operations.

21 Section 4. Agriculture Conservation Assistance Program.

22 (a) Establishment.--The Agriculture Conservation Assistance  
23 Program is established within the commission.

24 (b) Sources of funding.--Funding for the program may be  
25 provided through any of the following:

26 (1) Money appropriated for purposes of the program.

27 (2) Federal money appropriated or authorized for  
28 purposes of the program.

29 (3) Money received from another governmental agency  
30 through an interagency agreement or memorandum of

1 understanding.

2 (4) A gift or other contribution from a public or  
3 private source.

4 (5) Return on money dedicated for the program.

5 (c) Administration expenses.--The commission may dedicate up  
6 to 4% of the funds allocated for expenses incurred in  
7 administration of the program.

8 Section 5. Powers and duties of commission.

9 (a) General rule.--The commission shall:

10 (1) Adopt performance standards for:

11 (i) Administration and oversight of the program.

12 (ii) Best management practices to be implemented and  
13 receive funding under the program.

14 (2) Provide a system of program evaluation and quality  
15 control.

16 (3) Annually assess the program and report the  
17 assessment to the following:

18 (i) The chairperson and minority chairperson of the  
19 Agriculture and Rural Affairs Committee of the Senate.

20 (ii) The chairperson and minority chairperson of the  
21 Environmental Resources and Energy Committee of the  
22 Senate.

23 (iii) The chairperson and minority chairperson of  
24 the Agriculture and Rural Affairs Committee of the House  
25 of Representatives.

26 (iv) The chairperson and minority chairperson of the  
27 Environmental Resources and Energy Committee of the House  
28 of Representatives.

29 (4) Develop a training, education and technical  
30 assistance program for technicians, engineers and other

1 individuals performing work under the program.

2 (5) Create a system for collecting and reporting of  
3 collected data on funded practices to governmental agencies,  
4 in a manner consistent with criteria established under  
5 Federal and State laws.

6 (b) Delegation of powers and duties.--In performance of its  
7 powers and duties, the commission may delegate to The  
8 Pennsylvania State University or other entity determined  
9 appropriate by the commission to execute specific administrative  
10 tasks and activities. Up to 4% of the funds provided under  
11 section 4(b) may be committed by the commission to compensate  
12 the entities performing the administrative tasks and activities.  
13 Section 6. Apportionment criteria.

14 (a) General rule.--The commission shall apportion the funds  
15 under section 4(b) to participating conservation districts based  
16 on written apportionment criteria developed by the commission to  
17 establish priorities based on preventing nutrient and sediment  
18 pollution. The apportionment criteria shall consider:

- 19 (1) Agriculturally impaired stream miles.
- 20 (2) The number of cropland acres.
- 21 (3) The number of farms.
- 22 (4) The number of livestock and poultry.
- 23 (5) Other criteria as established by the commission.

24 (b) Unused funds.--Any apportioned funds that are not used  
25 in any fiscal year may roll over for the following fiscal year.  
26 Any unused apportioned funds after two years shall be  
27 reapportioned to participating conservation districts in the  
28 following year, consistent with the apportionment criteria  
29 prescribed under subsection (a).

30 Section 7. Powers and duties of participating conservation

1 districts.

2 (a) General rule.--Each conservation district participating  
3 in the program shall manage and administer funds apportioned by  
4 the commission in a manner consistent with this act and the  
5 guidelines established by the commission. Each participating  
6 conservation district shall enter into an agreement with the  
7 commission to establish the administrative responsibilities and  
8 activities to be performed by the conservation district.

9 (b) Use of funds.--Funds apportioned to a participating  
10 conservation district shall be used for:

11 (1) Approving and providing financial assistance to  
12 landowners and farmers to install and implement BMPs,  
13 consistent with the criteria for approval of projects  
14 provided under section 10.

15 (2) Costs for technical training and education and  
16 technical assistance in administration of projects approved  
17 by the conservation district.

18 (3) Establishment of procedures for submission and  
19 approval of applications for financial assistance for BMPs  
20 that minimize, to the extent feasible, procedural tasks and  
21 obligations for applicants.

22 (4) Adoption of written criteria for ranking of  
23 applications for financial assistance and determination of  
24 proposed projects to be given priority.

25 (5) Entering into written agreements with recipients of  
26 approved funding.

27 (6) Administration and procedures to ensure recipients  
28 of financial assistance timely complete projects in a manner  
29 that meets established design and construction standards.

30 (7) Adoption of procedures to ensure that recipients of

1 the approved funding will fully comply with requirements for  
2 future maintenance activities established under the terms of  
3 agreement.

4 (8) Development of procedures to ensure proper  
5 performance of agreements executed under the program.

6 (c) Administration.--A participating district may dedicate  
7 up to 12% of the annual amount apportioned by the commission  
8 under section 6 for expenses incurred in administration of the  
9 program.

10 Section 8. Advisory committee.

11 (a) General rule.--Within a conservation district, a  
12 committee may be appointed by the conservation district board to  
13 advise the program and identify local priorities and  
14 opportunities to complement other programs.

15 (b) Members.--The committee shall include at a minimum one  
16 staff member of the conservation district and one local  
17 representative of the United States Department of Agriculture  
18 Natural Resources Conservation Service and may include up to  
19 three other local representatives who are knowledgeable of  
20 agricultural operations and conservation.

21 Section 9. Applications and certifications.

22 (a) Application process.--A person may apply to its  
23 applicable delegated conservation district or the commission for  
24 an eligible project under the program. The conservation district  
25 shall prescribe the form and manner of the application. The  
26 application, at a minimum, shall include:

27 (1) The location of the project.

28 (2) The description of the project, including the  
29 planned BMPs.

30 (3) If applicable, the amount and sources of funding



1 available for the project.

2 (4) The total cost of the project.

3 (5) Any other information as required by the  
4 conservation district.

5 (6) Relevance of the project to the development,  
6 improvement or implementation of the applicant's manure or  
7 nutrient management plan, conservation plan or erosion and  
8 sedimentation plan.

9 (b) Review of applications.--The conservation district shall  
10 review complete applications based upon the criteria established  
11 under section 10 on an ongoing basis and in the order received.  
12 Within 90 days of receipt of a complete application, unless  
13 extenuating circumstances prevent the conservation district from  
14 doing so, the conservation district shall notify the applicant  
15 of:

16 (1) Whether the project is approved for funding under  
17 the program.

18 (2) The total amount of funds approved for the project.

19 (3) The amount of each type of funding approved for the  
20 project.

21 (c) Notice of completion and certification.--Upon completion  
22 of a project funded under this program, the person who received  
23 the approval for the project shall notify the conservation  
24 district of the completion of the project and shall submit all  
25 documents to certify the completion.

26 (d) Inspection.--Projects funded under this program may be  
27 subject to inspection by the commission, conservation district  
28 or their designated agent.

29 (e) Distribution of funds.--The funds shall be distributed  
30 upon certification and verification that the funded project has

1 been completed and design and construction standards have been  
2 met.

3 Section 10. Criteria for evaluation of applications.

4 In approving applications for eligible projects under the  
5 program, the applicable delegated conservation district or  
6 commission shall give priority to complete applications based  
7 upon the following criteria:

8 (1) The project meets the goals of any applicable  
9 watershed implementation plan.

10 (2) If applicable to the agricultural operation, the  
11 applicant has a conservation plan or agricultural erosion and  
12 sediment control plan and a manure management plan or  
13 nutrient management plan. Development of such plans shall be  
14 included in the application if not yet developed prior to the  
15 application.

16 (3) The project implements best management practices  
17 included in a conservation plan, agricultural erosion and  
18 sediment control plan, manure management plan or nutrient  
19 management plan. For purposes of this paragraph, the  
20 conservation district or commission shall give priority to  
21 projects that implement best management practices for control  
22 of nitrogen or phosphorus.

23 (4) An agricultural operation with an animal  
24 concentration area shall have implemented best management  
25 practices necessary to abate storm water runoff, loss of  
26 sediment, loss of nutrients and runoff of other pollutants  
27 from the animal concentration area, or the implementation of  
28 such best management practices shall be included in an  
29 application for funds.

30 (5) Proximity to surface waters, public drinking water

1 sources or karst geology with underground drainage systems or  
2 open sinkholes.

3 (6) The project meets the design and construction  
4 standards established by the commission. If standards do not  
5 exist for a best management practice approved by the  
6 commission, the commission may establish or approve design,  
7 construction and certification standards for such a best  
8 management practice.

9 (7) Any other criteria considered by the conservation  
10 district and approved by the commission.

11 Section 11. Liability for failure of performance.

12 (a) Liability.--A person receiving funds under an approved  
13 project who fails to adequately perform any term of the  
14 agreement executed for the project shall be liable for repayment  
15 of money provided to the recipient related to adequate  
16 performance of the agreement term.

17 (b) Cause of action.--The commission or conservation  
18 district may initiate any legal action in law or equity to  
19 compel adequate performance of a project agreement or recoup  
20 funds provided under an approved project for which the recipient  
21 is liable for repayment under subsection (a).

22 (c) Redistribution of funds received by the commission.--Any  
23 funds repaid to the commission as a result of failure of  
24 performance of a project agreement may be provided to the  
25 conservation district that was party to that project agreement  
26 for use in other project agreements.

27 Section 12. Effective date.

28 This act shall take effect in 60 days.