

Wetlands Preservation Legislation

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The second part amends the state's "Clean and Green" tax-break law so that landowners can get tax breaks for protecting wetlands and forest areas.

The final part seeks to authorize a \$25 million bond to fund the purchase of natural areas, including wetlands.

Several agricultural, or rural-interest organizations, have expressed concern with wetlands protections.

According to Brenda Shambaugh, legislative director with the Pennsylvania State Grange, the Brightbill proposal requires more study, but if it would address the issues of primacy, compensation, and the right to continue to farm on areas historically farmed, then it would tentatively receive Grange support.

The major concerns of most rural and agricultural organizations and individuals are that landowners be compensated for any lost monetary value placed on property due to protecting wetlands; fair compensation for wetlands condemned by the state for protection; clarify the definition of wetlands; establish primacy (one agency regulatory authority overall); increase the speed for DER review of permit applications; and establish a revolving 25-year grandfather clause so that any wetlands currently in agricultural use are exempt from regulatory actions

which would stop the historic use of the land.

While it is too early to get a consensus of opinion from agricultural organizations on Brightbill's proposal, several spokespersons have said that it appears to address the issues.

However, there are many different interests concerned with wetlands protection. More than 220 groups and individuals commented on possible protection legislation to the state Environmental Resources and Energy Committee last year.

"This wetlands protection package was developed with the help of hundreds of interested people on all sides of the wetlands issue," Brightbill said.

The major differences between Brightbill's proposal and DER's proposed regulations are many.

In addition to mandating a comprehensive mapping of wetlands, state funding in addition to permit fees, establishing compensation and the right of the landowner to take DER to court if unjust taking of property has occurred, the Brightbill proposal:

- Requires DER to be more service-oriented. Specifically it would direct DER to help property owners determine whether or not they have wetlands (within the federal definition now used by the Army Corps of Engineers).

- Encourages DER to delegate its functions to county conservation districts and local government

to achieve better local working relationships between landowner and regulatory authority.

- Requires property owners to notify potential buyers that wetlands exist on the property.

- Authorizes DER to set criteria for permit reviews for activities in margin areas around wetlands.

- Requires wetlands replacements at a minimum 1 1/2 acres of new wetland for every acre lost. And it calls for a 2-year monitoring of the replacement wetlands.

- Requires local governments to use the same definitions of wetlands in adopting local ordinances. And governments must regulate wetlands as part of their land development program.

- Requires DER to study the possibility of establishing state authority over wetlands, instead of the existing federal authority. DER would have to report to the General Assembly within 6 months of the signing of the bill into law.

- Requires DER to make an annual report on its program to protect wetlands and comment on its effectiveness.

The proposal would also create a 21-member "Wetlands Preservation Advisory Committee" which would be comprised of 12 members appointed by the secretary of DER; three each by president pro tempore of the Senate, and the speaker of the House; and three elected from DER's Citizens Advisory Council.

During the Pennsylvania State

Grange's Legislative Meeting, Brightbill told the group that his proposal did not seek to change the definition, but rather to adopt the federal definition and to find out what kinds and amounts of wetlands are really in existence.

Currently, estimates are that about 500,000 acres of wetlands exist in Pennsylvania, with an estimated yearly loss of 1,200 acres.

However, the mapping and classification of wetlands would establish whether or not the wetlands that exist are valuable and what amount of protection should be afforded them.

Three types of classification are proposed — exceptional resource value, intermediate resource value, and ordinary resource value.

Exceptional and intermediate resource value wetlands are to be mapped within 3 years, while ordinary value wetlands are to be mapped within 5 years.

The definition of exceptional value wetlands would be: "Wetlands serving as habitats for endangered species and wetlands hydrologically connected to them; wetlands within 1 mile of and connected to the headwaters of streams designated as exceptional value by DER, or wetlands within the corridor of scenic rivers.

Exceptional wetlands are also those necessary to maintain the quality or quantity of private of public water supplies, those in natural or wild areas on state or federal forest land, wetlands designated under the federal Emergency Wetlands Resources Act of 1986, and any manmade wetland created

to replace or enhance functions of existing wetlands as a result of a permit decision.

The specific types of wetlands to be called "intermediate value" is not outlined.

The types of wetlands which would be considered "ordinary value," includes those constructed to treat acid mine drainage, sewage or other waste, wetlands formed in manmade stormwater management, drainage, or in flood control facilities, or erosion and sedimentation control facilities, wetlands formed unintentionally as a result of man-made or animal-made changes in drainage (unless they contain an endangered species). Changes to wetlands created as a result of other DER permits would be regulated under those permits.

Permit applications are required to go through a public review and comment process including a notice in a local newspaper and publication in the "Pennsylvania Bulletin." DER must also publish its permit decision in the Bulletin.

DER must review permits within 45 days, with 15 working days to determine whether applications are complete, and 15 days to notify applicants if they are not complete. If a landowner does not provide information within 60 days, DER can deny the permit. However, if DER does not issue a decision within 45 days of receipt of a completed application, the application fee would have to be returned to the landowner.

Permit fees would start at \$300 each for basic permits. Small pro-

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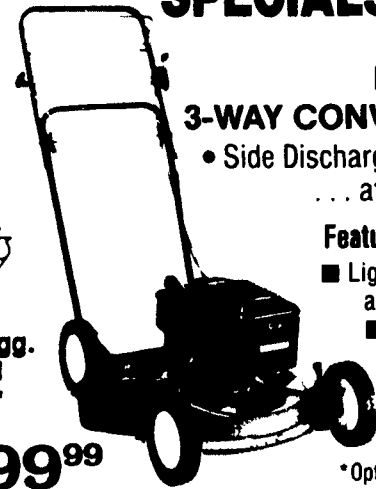
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