



Testimony

PA Senate Agriculture & Rural Affairs Committee Listening Session

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Offered by
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Good morning Chairman Brubaker and thank you Senator Fulmer for hosting this opportunity for the agriculture community and others to directly address the committee today. I am Joel Rotz, State Governmental Relations Director for the Pennsylvania Farm Bureau. Pennsylvania Farm Bureau has encouraged a will continue to urge our farmer members to take advantage of these listening sessions to voice their concerns and vision for the future of production agriculture in the state. However, today I would like to speak on behalf of our over 40,000 rural and farm family members to briefly highlight their collective concerns represented by the Pennsylvania Farm Bureau.

Before I get into issues that our members are seeking to be addressed, I would like to briefly reflect upon where we are in the implementation of one the most important laws enacted to protect the future family farms in the state in many years, Act 38 of 2005, commonly known as ACRE. While some early rulings by Commonwealth Court on preliminary objections to certain cases filed by the Attorney General are concerning, Pennsylvania Farm Bureau believes the very technical interpretation of the ACRE law taken by the courts can be overcome by further appeal, or if needed, legislative correction.

Overall, we believe Act 38 is working as it should. The Attorney General is filing legal actions against townships that, in his professional judgment, are illegally imposing restrictions against local agricultural. The Attorney General has also used this same professional judgment in deciding not to pursue legal action against a township in response to numerous requests for ordinance review filed with his office. Where the Attorney General has decided to pursue legal action, he has given ample opportunity for township officials to correct the legal deficiencies he sees with the ordinance.

It is not surprising that the Attorney General's pursuit of illegal ordinances under Act 38 upsets some local officials. They are now dealing with a legal force that is more equal in strength and financial resources than what existed before Act 38, which were individual farmers with little means or resources to challenge illegal ordinances enacted against them.

It is our understanding that officials in Richmond Township are trying to gain political sympathy in their opposition to Act 38 and the legal action that the Attorney General by trying to draw attention to the Attorney General's challenge of the township ordinance's requirements for minimum acreage. This effort, in our opinion, is merely a tactic to deflect public attention away from other provisions of their ordinance that officials should know are not legal and that impose onerous restrictions on agriculture. The township's 1500-foot setback provisions have already been found to be illegal in one court challenge – a case initiated before Act 38 in which a farm couple had to incur all of the significant legal expenses themselves.

The township raised a multitude of technical objections in an effort to get the court to dismiss the Attorney General's lawsuit, all of which were essentially dismissed by the court. Now that these efforts have failed, township officials are frustrated that Act 38

may actually hold townships legally accountable to someone else beside themselves. State laws require it. Act 38 provides the means for it to be done.

There are a number of priority issues for our members that do not require action specifically by this committee, but are still important pocketbook concerns in sustaining a business climate that keeps production agriculture economically viable in the state. School property taxes and affordable health insurance top the list. Pennsylvania Farm Bureau urges the entire General Assembly to return to the issue of property tax reform. Reforms passed last session will do little to relieve the economic burden school property taxes place on Pennsylvania farmers. The very nature of the business often requires farmers to own significant amounts of land at often low returns on investment.

Schools need to be financed through taxes that better reflect ability to pay such as income and sales. Farm Bureau would be supportive of the Governor's proposed one percent state sales tax increase if the total revenue raised would all be applied to school property tax reduction that includes land and not just homestead and farmstead. It is our understanding that the one percent increase in sales tax would generate about \$1.4 billion and could reduce all school property tax by 14 percent across the state if totally dedicated to that purpose. However, as you know, the Governor is only proposing about a third of the revenue generated by the sales tax increase go to school property tax reduction.

We also urge the legislature to adopt real health care reforms that would address the affordability of health care in the state. Many of our farm families are paying as much as \$1,200-1,400 per month for health insurance as self employed individuals. This is far too complex of an issue to address in a short time frame today. However, I am including testimony provided by the Pennsylvania Farm Bureau to the House Insurance Committee at hearing held just last week in response to the Governor's proposed health care reforms.

I just want to highlight for this committee that our members point to property taxes and health care costs as two important economic factors that drive them from their farms to seek other employment. Pennsylvania Farm Bureau has always been and continues to be appreciative and supportive of all the efforts made by our state legislature in establishing and funding the state's farmland preservation program. However, it is equally important that we work to preserve the farmer. Finding ways to increase farm profitability and acting to contain costs such property taxes and health care are key to keeping production agriculture thriving in our state.

Pennsylvania Farm Bureau is also very concerned about the need for assisting farmers in meeting the barrage of environmental regulation that they are required to meet. It is quite frankly disheartening that the 2007-08 budget proposed by Governor Rendell fails to increase funding, and in some areas proposed significant cuts in funding, to programs that are vital in assisting farmers to meet environmental regulations. Our farmers are justifiably proud of the strides that they have made in recent decades addressing nutrient management and conservation concerns. Much of this effort was made voluntarily. However, it seems the bar for environmental compliance keeps getting raised higher and higher through more stringent regulation. It is no secret the Rendell Administration has

placed a high level of expectation on production agriculture on the environmental front. We would expect a consistency in public policy in meeting environmental goals by adequately funding the programs needed to accomplish those goals.

We encourage each of you on the Senate Agriculture and Rural Affairs Committee to support increased funding for conservation districts in the Department of Agriculture budget in the amount of one million dollars. Also the nutrient management fund, which is a non-lapsing fund that has slowly eroded to having insufficient funds to meet the needs of the increasing amount of farmers who are required to meet changes in Pennsylvania's nutrient management regulations, needs significant increases in funding. Pennsylvania Farm Bureau is recommending increasing the fund from \$3.28 million to \$5 million. We are also very supportive of SB 640, introduced by Chairman Brubaker and House Bill 100, introduced by Representative Jerry Stern, to create the REAP program as a method to increase private sector dollars invested in conservation practices that would qualify for state tax credits.

Other budget priorities for Pennsylvania Farm Bureau include restoring funding for crop insurance, ag research and the Department's Agricultural Excellence programs. We also support new funding for the recently established Farmer's Market Development Program approved by the legislature last year. Also needed, are significant levels of increased funding in Penn State's Research and Extension lines of \$3 million each.

I want to note that the total price tag for adequate funding increases for all the essential assistance programs for Pennsylvania Agriculture is approximately \$10.5 million. In fact nearly \$4 million of that amount is restoration of prior funding levels. It is a prudent and modest investment in the state's leading industry.

Returning to legislative priorities outside of the budget, we look forward to legislation being passed that will better protect farmers and other landowners from liability for injuries caused by hunters. In a recent Lehigh County court case, the jury found that a local farmer who allowed a person to hunt on his property was 10% liable for injuries that hunter caused in an accidental shooting of a person located on a neighboring property. The hunter's action in firing his weapon was clearly the only direct factor in causing the person's injuries and only the hunter acted in violation of the Game Code in firing his weapon. But the Court allowed the jury to consider whether any liability should be attributed to the farmer because of the farmer's grant of permission to hunt. With joint and several liability still in place in the state, any degree of liability on the part of the landowner can mean paying 100 % of the damages from a lawsuit.

Farmers and other private property owners should not be held legally responsible for unlawful or negligent actions of hunters just because the landowner allowed the hunter on his land during hunting season. Farmers should not fear being held liable for accidents that are beyond their control and caused by the actions of someone else on their property. Without adequate landowner liability protection, farmers could literally "lose the farm" if they are found liable for actions of hunters on their property. The questionable nature of