

EROSION CONTROL AND PREVENTION COMMISSION BILL, 2020

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SCHEDULE

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE EROSION CONTROL PREVENTION COMMISSION AND VEST IT WITH THE RESPONSIBILITY FOR THE PREVENTION CONTROL, MANAGEMENT AND REDRESS OF EROSION AND FOR RELATED MATTERS

Sponsored by Senator Ubah, Ifeanyi Patrick

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART I - ESTABLISHMENT OF THE EROSION CONTROL AND
2 PREVENTION COMMISSION

3 1.-(1) There is established a body to be known as Gully Erosion
4 Control and Prevention Commission (in this Bill referred to as "the
5 Commission"). Establishment of the Commission

6 (2) The Commission shall be a body corporate with perpetual
7 succession and a common seal and may sue and be sued in its corporate
8 name.

9 (3) The Head office of the Commission shall be in Abuja with
10 operational Offices in Imo, Anambra, Abia, Enugu, Ebonyi, Edo, Akwa
11 Ibom, Bayelsa, Delta Cross River, Rivers, Ekiti, Lagos, Ogun, Ondo, Osun,
12 Oyo and Benue. Head Office of the Commission

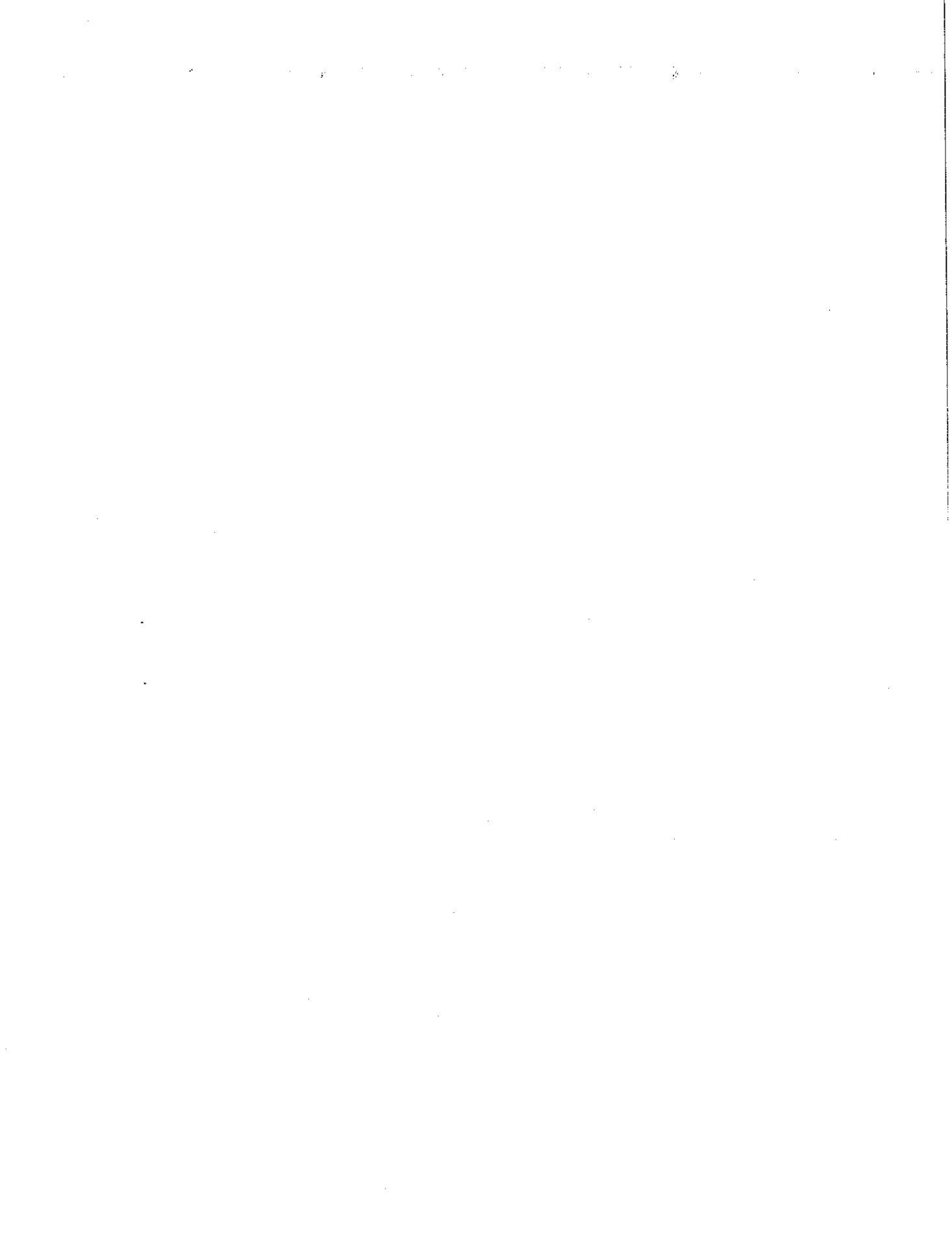
13 2.-(1) There is established a Governing Council for the
14 Commission (in this Bill referred to as "the Council") which shall be
15 responsible for the discharge of the functions of the Commission. Establishment and membership of the Governing Council

16 (2) The Council shall consist of:

17 (a) a chairman;

18 (b) a representative each from the states set out in section 1 (3);

19 (c) A representative of the Federal Ministries in charge of:



- 1 (i) Environment;
2 (ii) Transportation;
3 (iii) Works;
4 (iv) Agriculture and Rural Development;
5 (v) Finance;
6 (vi) Mines and Steel, and
7 (vii) National Planning.
8 (d) The Executive Secretary of the Commission.
9 (e) Two representatives of recognised professional associations of

10 environmentalists in Nigeria.

11 (3) The Chairman and members of the Council of the Commission
12 shall be:

- 13 (a) Appointed by the President on the recommendation of the
14 Minister subject to the confirmation by the Senate;
15 (b) Persons of proven integrity, honour and ability; and
16 (c) Part-time members except the Executive Secretary who shall be a
17 full-time member.

Schedule

18 (4) The supplementary provisions set out in the Schedule to this Bill
19 shall have effect with respect to the proceedings of the Council and other
20 matters contained therein.

Tenure of Office

21 3. The Chairman and members of the Council other than the
22 Executive Secretary shall each hold office

23 (a) for a term of 4 years and may be re-appointed for a further term of 4
24 years and no more; and

25 (b) on such terms and conditions as may be specified in their letters of
26 appointment.

Cessation of
Membership

27 4.-(1) A person shall cease to hold office as a member of the Council
28 on the occurrence of any of the following:

29 (a) he becomes bankrupt, suspends payment or compounds with his
30 creditors;

1 (b) he is convicted of a felony or any offence involving dishonesty
2 or fraud;

3 (c) he becomes of unsound mind or is incapable of carrying out his
4 duties;

5 (d) he is guilty of a serious misconduct in relation to his duties;

6 (e) in the case of a person who possesses any professional
7 qualification and he is disqualified or suspended, other than at his own
8 request from practicing his profession in any part of the world by any order
9 of a competent authority made in respect of that member; or

10 (f) he resigns his appointment by a letter addressed to the President.

11 (2) Where a member of the council ceases to hold office for any
12 reason whatsoever, before the expiration of the term for which he is
13 appointed another person representing the same interest as that member
14 shall be appointed to the Council for the expired term.

15 (3) A member of the Council may be removed by the President on
16 the recommendation of the Minister if he is satisfied that it is not in the
17 interest of the Commission or the public that the member continues in office.

18 (4) Where a vacancy occurs in the membership of the Council, it
19 shall be filled by the appointment of a successor to hold office for the
20 remainder of the term of office of his predecessor.

21 5. Members of the Council shall be paid such allowances and
22 expenses as the Government may direct from time to time.

Allowances of
members

23 6. The Council shall have power to :

Powers of the
Council

24 (a) manage and superintend over the affairs of the Commission;

25 (b) make, alter and revoke rules and regulations for the effective
26 running of the Commission;

27 (c) employ and pay the staff of the Commission such
28 remunerations and allowances as payable to persons in similar organization
29 in the country;

30 (d) enter into contracts and do such other things as may be

1 necessary or expedient for the discharge of its functions and ensure the efficient
2 performance of the functions of the Commission; and

3 (e) receive, disburse and account for funds of the Commission.

4 P ART II - FUNCTIONS AND POWERS OF THE COMMISSION

Functions of the
Commission

5 7. The Commission shall:

6 (a) carry out an extensive survey of the extent of gully erosion in the
7 country;

8 (b) manage, control redress and prevent gully erosion in the country;

9 (c) formulate policies and guidelines for the prevention, control and
10 management of gully erosion in the country;

11 (d) advise on balanced and responsible use of land in the country;

12 (e) conceive, plan and implement in accordance with set rules and
13 regulations projects and programmes for gully erosion prevention, control and
14 management;

15 (f) co-ordinate and promote research activities relating to gully
16 erosion control, management and prevention;

17 (g) adopt an integrated approach addressing the physical, biological
18 and socio-economic aspects of the process of gully erosion;

19 (h) monitor the state of preparedness of all organisations or agencies
20 which may contribute to the control of gully erosion;

21 (i) integrate strategies for poverty eradication into the process with
22 participation of affected local communities;

23 (j) educate and inform the public on gully erosion prevention and
24 control measures;

25 (k) examine and implement innovative ways of promoting alternative
26 livelihoods including training in new skills;

27 (l) collate data from relevant agencies so as to enhance planning and
28 field operation of gully erosion prevention, management and control;

29 (m) cooperate with relevant inter-governmental organisations;

30 (n) facilitate through International cooperation the transfer of

1 technology knowledge and know how on the prevention, control and
2 management of gully erosion;

3 (o) ensure sound and efficient management of the resources
4 available to the Commission from the Federation Account;

5 (p) receive financial and technical aid from international
6 organisations and non-governmental agencies for the purpose of prevention
7 management and control of gully erosion.

8 (q) carry out such other functions as the President may from time to
9 time direct.

10 8.-(1) The Commission shall have power to do anything which will
11 facilitate the carrying out of its functions and in particular may:

Powers of the
Commission

12 (a) sue and be sued in its corporate name;

13 (b) acquire, hold, manage and alienate movable and immovable
14 property;

15 (c) monitor and control gully erosion in the affected areas;

16 (d) enter into contracts for the prevention, control and management
17 of all gully erosion problems;

18 (e) purchase or acquire any asset, business or property considered
19 necessary for the proper conduct of its functions;

20 (f) sell, let, lease or dispose of any of its property;

21 (g) undertake or sponsor research where necessary for the
22 performance of its functions; and

23 (h) train managerial, technical or other category of staff for the
24 purpose of running the affairs of the Commission;

25 (i) enter into partnerships, combines, relationships,
26 understandings, agreements and joint ventures for the purpose of carrying out
27 any of the functions.

28 (2) The powers conferred on the Commission may be exercised by
29 it or through any of its officers, employees, agents authorized in that behalf
30 by the Commission.

1 PART III - APPOINTMENT OF EXECUTIVE SECRETARY AND OTHER STAFF
2 OF THE COMMISSION

Appointment and
duties of the
Executive
Secretary of the
Commission

3 9.-(1) There shall be an Executive Secretary of the Commission who
4 shall be appointed by the President.

5 (2) The Executive Secretary shall:

6 (a) be the chief executive and accounting officer of the Commission
7 and

8 (b) be responsible to the Council for the execution of the policies and
9 the administration of the daily affairs of the Commission.

Tenure of and
term of
remuneration of
the Executive
Secretary

10 10.-(1) The Executive Secretary shall be appointed for a term of 5
11 years in the first instance and may be r appointed for a further term of 5 years
12 and no more, subject to satisfactory performance.

13 (2) The Executive Secretary shall:

14 (a) be paid such remuneration as may be prescribed in his letter of
15 appointment; and

16 (b) ensure compliance with the provision of section 21 of this Act
17 relating to power to borrow.

Executive
Secretary

18 11. The Executive Secretary shall hold office on such terms and
19 conditions as are specified in his letter of appointment, and may resign his
20 appointment by writing under his hand delivered to the Minister.

Appointment
and duties of
Administrative
Secretary

21 12. The Council shall appoint for the Commission an Administrative
22 Secretary who shall:

23 (a) be a legal practitioner and is so qualified for a period of not less
24 than 10 years;

25 (b) keep the records of transactions and correspondence of the
26 Commission; and

27 (c) perform such other functions as the Councilor Executive
28 Secretary may direct.

Staff of the
Commission
and their functions
and remuneration

29 13. The Council shall appoint for the Commission such number of
30 employees as may in the opinion of the Council be expedient and necessary for

1 the proper and efficient performance of the Commission and pay them
2 remuneration and allowances as it determines.

3 **14.-(1)** Notwithstanding the provisions of sections 12 and 13 of
4 this Act, the Council shall have power to appoint for the Commission either
5 directly or on secondment from any public service in the Federation, of
6 employees may, in the opinion of the Council be required to assist the
7 Commission in the discharge of any of its function under this Act.

Appointment and
Secondment from
Public Service

8 (2) The person seconded under this section may elect to be
9 transferred to the service of the Commission, and all previous service he may
10 render in the public service shall count as service to the Commission for the
11 purpose of all pension subsequently payable by the Commission.

12 **15.** Without prejudice to the provisions of sections 13 and 14 of
13 this Act, the Council may engage such consultant and advisers as it may
14 require for the effective discharge of the functions of the Commission.

Engagement of
Consultants and
Advisers

15 **16.-(1)** There shall be established in the Head Office of the
16 Commission, the following Departments:

The structure of
the Commission

- 17 (a) Administration and Finance;
- 18 (b) Education and Public Awareness;
- 19 (c) Works and Services;
- 20 (d) Planning, Research and Statistics;
- 21 (e) Monitoring and Evaluation; and
- 22 (f) Legal Services.

23 (2) The Council shall set up its own monitoring panel to monitor
24 the projects being executed by the Commission.

25 (3) The Council, may with the approval of the President, increase
26 the number of Departments as it may deem necessary and expedient to
27 facilitate the realization of the objectives of the Commission.

28 PART IV - FINANCIAL PROVISIONS AND AUDIT

29 **17.** The staff of the Commission shall be entitled to pensions,
30 gratuities and other retirement benefits as are enjoyed by persons holding

Pensions and
Gratuity

- 1 equivalent grade in the Civil Service of the Federation.
- 2 **18.** The Commission shall pay gratuities or provide and maintain
3 superannuation scheme (whether contributory or not) for the employees.
- 4 **19.-(1)** The Commission shall establish and maintain a fund into
5 which all moneys accruable to the Commission shall be paid and from which
6 all the activities of the Commission shall be funded.
- 7 (2) There shall be paid and credited to the fund;
- 8 (a) all moneys in the accounts of the Ecological Fund relating to the
9 states affected by erosion;
- 10 (b) Federal Government contribution to the Fund of the Commission
11 equivalent of 100 percent of the total money due to member state of the
12 Commission from the Ecology Fund;
- 13 (c) donations, gifts, grants and testamentary disposition from
14 individuals or corporate organisations at home or abroad;
- 15 (d) all other assets that may, from time to time, accrue to the
16 Commission.
- 17 (3) The funds of the Commission shall be disbursed according to the
18 approved formula.
- 19 (4) The Commission shall apply the proceeds of the Fund established
20 pursuant to section 19 (1) of this Act to:
- 21 (a) the cost of administration of the Commission;
- 22 (b) the payment of salaries, fees, remuneration, allowances, pensions
23 and gratuities payable to the members of the Governing Council and the
24 employees of the Commission;
- 25 (c) the payment of all contracts, including mobilisation, fluctuations
26 Variations, legal fees and cost on contract Administration;
- 27 (d) the payment for all purchases; and
- 28 (e) undertaking such other activities as are connected with all or any
29 of the functions of the Commission under this Act.
- 30 (5) The Council shall cause the accounts of the Commission to be

1 (3) The notice referred to in subsection (2) shall state the cause of
2 action the particulars of the claims, the name and place of abode of the
3 intending plaintiff and the relief which he claims.

4 28. A notice, summons or other document required or authorized
5 to be served upon the Commission under the provisions of this Act or any
6 other Law or enactment may be served by delivering it to the Executive
7 Secretary or by sending it by registered post and addressed to the Executive
8 Secretary at the principal office of the Commission.

Service of
Documents

9 29.-(1) No execution or attachment of process shall be issued
10 against the Commission or its properties in any action or suit without the
11 consent of the Attorney-General of the Federation.

Restriction on
Execution against
Property of the
Commission

12 (2) Notwithstanding the provisions of subsection (1) of this
13 section, in any action or suit against the Commission, no execution or
14 attachment of process in the nature thereof shall be issued against the
15 Commission unless not less than three months' notice in writing of the
16 intention to execute or attach has been given to the Commission.

17 (3) Any sum of money which by the judgement of any Court is
18 awarded against the Commission shall, subject to any direction given by the
19 Court where notice of appeal of the said judgement has been given, be paid
20 from the general reserve fund of the Commission.

21 30. A member of the Council, the Executive Secretary, any officer
22 or employee of the Commission shall be indemnified out of the assets of the
23 Commission against any proceedings, whether civil or criminal, in which
24 judgement is given in his favour, or in which he is acquitted, if any such
25 proceeding is brought against him in his capacity as a member of the Council,
26 the Executive Secretary, officer or employee of the Commission.

Indemnity of
Officers

27 31. The Executive Secretary may with the approval of the Council
28 engage persons with knowledge or experience in gully erosion control and
29 prevention or in matters relevant to the functions of the Commission to assist
30 otherwise than on the basis of full - time employment.

Engagement of
Professionals
other than staff

Power of the Minister to give direction 1 32. The Minister may give to the Commission directives of a
 2 general or special nature with respect to any of its functions.

Regulations 3 33. The Council may, with the approval of the Minister, make
 4 Regulations for the purpose of carrying out or giving full effect to the
 5 provisions of this Bill.

Interpretation 6 34. In this Bill unless the context otherwise requires:
 7 "Chairman" means the Chairman of the Governing Council of the
 8 Commission;
 9 "Commission" means Erosion Control and Prevention Commission;
 10 "Council" means a Governing Council of the Commission;
 11 "Gully Erosion" means land degradation and destruction resulting from
 12 various factors including natural causes (activities of rivers, rain,
 13 weathering) and human activities creating thereby gullies, ravines, craters,
 14 landslides and mudslide;
 15 "Member" means a member of the Council and includes the Chairman;
 16 "Minister" means the Minister in charge of matters relating to the
 17 Environment;
 18 "Power" includes functions and duty; and
 19 "President" means the President of the Federal Republic of Nigeria.

Citation 20 35. This Bill may be cited as the Erosion Control and Prevention
 21 Commission Bill, 2020.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

Cap. 192 LFN

25 1 .-(1) Subject to this Act and section 27 of the Interpretation Act,
 26 the Council may make standing orders regulating its proceedings or those of
 27 any of its Committees.

28 (2) The quorum of the Council shall be the Chairman or the person
 29 presiding at the meeting and five other members of the Council, one of
 30 whom shall be ex-officio member and the quorum of any Committee of the

1 Council shall be as determined by the Council.

2 2.-(1) The Council shall meet whenever it is summoned by the
3 Chairman and if the Chairman is required to do so by notice given to him by
4 not less than eight other members, he shall summon a meeting of the Council
5 to be held within fourteen days from the date on which the notice is given.

6 (2) Where the Council desires to obtain the advice of any person on
7 a particular matter, the Council may co-opt him to the Council for such a
8 period as it deems fit, but a person who is in attendance by virtue of this sub-
9 paragraph shall not be entitled to vote at any meeting of the Council and
10 shall not count towards a quorum.

11 *Committees*

12 3.-(1) The Council may appoint one or more Committees to carry
13 out, on behalf of the Council such functions as the Council may determine.

14 (2) A Committee appointed under this paragraph shall consist of
15 such number of persons as may be determined by the Council and a person
16 shall hold office in the Committee in accordance with the terms of his
17 appointment.

18 *Miscellaneous*

19 4.-(1) The fixing of the seal of the Commission shall be
20 authenticated by the signatures of the Chairman or any other member of the
21 Council generally or specifically authorized by the Council to act for that
22 purpose and the Executive Secretary.

23 (2) Any contract or instrument which if made or executed by a
24 person not being a body corporate, would not be required to be under seal
25 may be made or executed on behalf of the Commission by the Executive
26 Secretary or any person generally or specifically authorized by the Council
27 to act for that purpose.

28 (3) A document purporting to be a document duly executed under
29 the seal of the Commission shall be received in evidence and shall unless
30 and until contrary is proved, be presumed to be so executed.

1 5. The validity of any proceedings of the Council or of a Committee
2 shall not be adversely affected by:

3 (a) a vacancy in the membership of the Council or Committee;

4 (b) a defect in the appointment of a member of the Council or
5 Committee; or

6 (c) reason that a person not entitled to do so took part in the
7 proceedings of the Council or Committee.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the establishment of the Erosion Control and Prevention Commission as a statutory body and to vest it with the responsibility to prevent, manage, control and redress erosion in the affected States.