WEST VIRGINIA CODE CHAPTER 19 ARTICLE 12A

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§19-12A-1. Legislative findings and declarations.

The Legislature hereby finds and declares that in order to ensure economic and efficient land use, increase and improve agricultural production, and provide food for residents of state operated institutions, state-owned farms should operate under the control of the Commissioner of Agriculture. The Legislature also finds and declares that the operation of all institutional farms under one management system with a single integrated farm plan is the most efficient method of providing the food needs of residents of state-operated institutions and will promote the health and welfare of all citizens of this state.

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§19-12A-1a. Farm management commission abolished; property transferred; powers and duties of commissioner of agriculture.

(a) The farm mnagement commission previously established by this article is abolished. The real and personal property held by the commission, including all institutional farms and all easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories and farm facilities, operating revenue funds for those operations, and all employees of the farm management commission, are hereby transferred to the Department of Agriculture. The Commissioner of the Department of Agriculture shall have all those powers, duties and responsibilities previously vested in the farm management commission and the farm management director pursuant to this article.

(b) Not later than January 1, 1995, the Commissioner of the Department of Agriculture shall report to the Legislature on the optimum use or disposition of each institutional farm transferred pursuant to this section. The commissioner shall set forth the objectives of the agency with respect to the land, the criteria by which the agency has determined the optimum use or disposition of the property, and determinations as to whether the land shall be used in the production of food products, the production or development of natural resources, held for recreational or other specified uses, or sold, or leased in whole or in part. With respect to each institutional farm, the commissioner shall report on which properties are subject to reversionary clauses or other restrictions in deeds of conveyance which may affect permitted uses, or proposed sales or leases. With respect to each institutional farm, the commissioner shall report on projected revenues and expenses from operations. Planned activities and uses with respect to the land shall be detailed for at least five years specifically and at least ten years generally and shall include a cost benefit analysis of options or alternatives for action. In the case of land managed for production of timber, the commissioner shall report on projections for timber harvesting on a sustained-yield basis, income estimates, and the years in which income will be generated. The report shall detail planned actions to protect the land from erosion, fire, plant and animal pests, noxious insects, noxious weeds and plant and animal diseases. In the case of land subject to rights granted by existing contracts, leases, licenses or easements, the report shall include a determination as to whether the interest granted should be continued or withdrawn. In the case of land managed under land management plans adopted prior to the effective date of this section, land management plans shall be reviewed and amended as may be necessary. When appropriate, the commissioner shall consult with the secretaries of the various departments of state government and shall request from the secretaries suggestions for land use and resource development on the land. In the case of land recommended for sale, lease, or transfer, the report shall include the review and approval of the director of the West Virginia Development Office of the proposed use and alternate suggestions for use of any institutional farm which may be in the public interest. Notwithstanding any other provision of this subsection to the contrary, title to the Weston State Hospital Institutional Farm, located at Weston, Lewis County, is transferred from the Department of Agriculture to the Department of Health Facilities, including all buildings thereon: *Provided*, That the Department of Agriculture shall retain all oil, gas and mineral rights, interests and title

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underlying the surface of the real property being transferred to the Department of Health Facilities under this subsection.

The Secretary of the Department of Health Facilities is authorized to sell, lease, donate or otherwise transfer the Weston State Hospital Institutional Farm, as well as the grounds of the former Weston State Hospital including the improvements and appurtenances belonging thereto: *Provided*, That notice of the sale of the real estate at auction shall include the right of the state to reject any and all bids: *Provided, however*, That the deed conveying title to the real estate shall contain a reservation in it providing that the communications tower, located on the real estate and owned and maintained by the county commission of Lewis County, shall remain the property of the Lewis county commission and shall remain on the real estate free of any cost or rent and the county commission of Lewis County shall have an easement for ingress and egress and for the maintenance of the tower in perpetuity unless agreed otherwise in writing by the county commission of Lewis County.

(c) Nothing in this section shall be construed to limit the duties imposed on the Department of Health and the Division of Corrections to purchase food products pursuant to section five of this article and to make interdepartmental transfers pursuant to section six of this article: *Provided*, That purchases shall be made from and transfers made to the Department of Agriculture.

(d) Nothing in this section shall be construed to invalidate any action or contractual obligation of the farm management commission prior to the effective date of this section.

(e) Notwithstanding the provisions of subsection (b) of this section, in any case where the farm management commission has determined by motion adopted prior to the effective date of this article that an institutional farm or part thereof should be transferred or disposed of, or authorized any formal agreement for this purpose, whether or not any documents related to the agreement have been reduced to writing or executed, the commissioner shall execute all documents and take all necessary actions to implement the transfer or disposition of the property.

(f) For any land transferred to the public land corporation for sale, exchange or transfer pursuant to section five of this article, the farm property shall be offered for sale in both small parcels of land and as whole farms and shall be sold in the form which brings the highest price for the total property. For purposes of this subsection, "small parcels" means parcels of no more than five acres.

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§19-12A-2. Definitions.

For the purpose of this article:

"Agricultural products" means livestock and livestock products, poultry and poultry products, fruits and fruit products, vegetables and vegetable products, grains and hays and the products derived therefrom, tobacco, syrups, honey, and other products derived from the business of farming; including such other products as may be manufactured, derived, or prepared from agricultural products, raw or processed, which are used as food for man or animals.

"Commission" means the Farm Management Commission as established by this article.

"Commissioner" means the Commissioner of Agriculture, or his or her designee.

"Department" means the Department of Agriculture.

"Farm equipment" means any equipment used for agricultural production.

"Farm facility" means any processing plant, milking parlor, farm equipment storage building, barn, silo, grain storage building, swinery, or any other building owned by an institution used in its farming operations.

"Institution" means any facility operated by the Department of Health Facilties or the Division of Corrections and Rehabilitation.

"Institutional farm" means any land which was formerly operated as a farm, is now being operated as a farm, or could be converted to agricultural production.

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§19-12A-3

Repealed

Acts, 2019 Reg. Sess., Ch. 6.

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§19-12A-4. Transfer of institutional farms, farm equipment, farm facilities, inventories and agricultural products to commission; utility continuance; provisions for uninterrupted operation; transfer of funds.

(a) On July 1, 1976, the department of mental health shall transfer all institutional farms and all easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories and farm facilities thereon, or attached thereto, to the commission as set forth below:

(1) The Colin Anderson institutional farm, located at St. Marys, Pleasants County, which shall include not less than six hundred fifty acres;

(2) The Huntington State Hospital institutional farm, located at Barboursville, Cabell County, which shall include not less than six hundred ninety-seven acres;

(3) The Lakin State Hospital institutional farm, located at Lakin, Mason County, which shall include not less than nine hundred fifty acres;

(4) The Spencer State Hospital institutional farm, located at Spencer, Roane County, which shall include not less than one hundred nine acres;

(5) The Weston State Hospital institutional farm, located at Weston, Lewis County, which shall include not less than five hundred seventy acres; and

(6) The Roney's Point Branch Hospital institutional farm located at Triadelphia, Ohio County, which shall include not less than one hundred thirty acres.

(b) On July 1, 1976, the state commissioner of public institutions shall transfer all institutional farms and all easements, mineral rights, appurtenances, farm equipment, agricultural products, inventories and farm facilities thereon or attached thereto to the commission as set forth below:

(1) The Huttonsville Correctional Center institutional farm, located at Huttonsville, Randolph County, which shall include not less than five thousand two hundred acres, including all of the tract of land commonly known as Becky's Creek farm;

(2) The Hopemont State Hospital institutional farm, located at Terra Alta, Preston County, which shall include not less than five hundred acres;

(3) The West Virginia Industrial School for Boys institutional farm, located at Pruntytown, Taylor County, which shall include not less than one thousand five hundred eighty-seven acres;

(4) The West Virginia Prison for Women institutional farm, located at Pence Springs, Summers County, which shall include not less than one hundred eighty acres;

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(5) The Pinecrest State Hospital institutional farm, located at Beckley, Raleigh County, which shall include not less than two hundred twenty acres;

(6) The West Virginia Penitentiary institutional farm, located at Moundsville, Marshall County, which shall contain not less than one hundred forty-one acres;

(7) The Denmar State Hospital institutional farm, located at Beard, Pocahontas County, which shall include not less than one hundred twelve acres;

(8) The Andrew S. Rowan Memorial Home institutional farm, located at Sweet Springs, Monroe County, which shall include not less than six hundred fifty acres;

(9) The West Virginia Children's Home institutional farm, located at Elkins, Randolph County, which shall include not less than one hundred fifty acres; and

(10) The West Virginia Industrial Home for Girls institutional farm, located at Industrial, Harrison County, which shall include not less than twenty acres.

(c) In the event a water supply system, a sewage disposal system or any other utility or service facility involved in the operation of an institution is hereby transferred to the commission, an easement is hereby granted to the institution affected to enable the institution to continue, uninterrupted, the water supply system, the sewage disposal system or the utility or service facility so transferred.

If an institutional farm is dependent upon a water supply system, a sewage disposal system or any other utility or service facility located on the property of an institution, an easement is hereby granted to the commission to enable the commission to continue, uninterrupted, the water supply system, the sewage disposal system or the utility or service facility involved.

In all cases where an institution and a farm under the control of the commission are jointly dependent on the same water supply system, sewage disposal system, utility or service facility, the cost shall be prorated on the basis of the amount used by the institution and the institutional farm.

(d) In order to provide for the uninterrupted operation of institutional farms, the commission shall, before June 25, 1976, meet and establish a farm management plan. Before June 25, 1976, the commission shall employ a farm management director and establish an employee system. The commission and the farm management director shall meet and confer with the commissioner of public institutions and the director of the department of mental health prior to July 1, 1976, to facilitate the orderly transfer of the institutional farms. The state commissioner of public institutions and the director of the department of mental health shall cooperate fully with the commission to ensure that farming operations are not discontinued prior to their transfer to the commission.

(e) After June 30 but no later than July 15, 1976, all funds remaining in all institutional farms' special revenue accounts shall be transferred to the general revenue account of the

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state and all institutional farms' special revenue accounts shall be abolished.

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§19-12A-5. Powers, duties, and responsibilities of commissioner.

(a) The commissioner shall manage all institutional farms, equipment, and other property to most efficiently produce food products for state institutions, support the department and its activities, advance the agricultural interests of the state, as identified by the commissioner, and otherwise implement the intent of the Legislature as set forth by this article. From the total amount of food, milk, and other commodities produced on institutional farms, the commissioner shall sell, at prevailing wholesale prices, and each of the institutions under the control of the Department of Health Facilities and Division of Corrections and Rehabilitation shall purchase, these products based on the dietary needs of each institution: *Provided*, That if the commissioner cannot sell sufficient food products to each institution to meet the demand created, each institution may purchase such food products from vendors who can supply those food products at the greatest savings to the taxpayers of the state.

(b) If requested by the Commissioner of the Division of Corrections and Rehabilitation, the Commissioner of Agriculture may authorize the Division of Corrections and Rehabilitation to operate a farm or other enterprise using inmates as labor on those lands. The Commissioner of the Division of Corrections and Rehabilitation is responsible for the selection, direction, and supervision of the inmates and shall, in consultation with the Commissioner of Agriculture, assign the work to be performed by inmates. The Commissioner of Agriculture may also request inmate labor to perform work on the institutional farms, and if requested, the Commissioner of the Division of Corrections and Rehabilitation shall provide inmate labor, if available.

(c) The commissioner may:

(1) Lease to public or private parties, for purposes including agricultural production or experimentation, public necessity, or other purposes, any land, easements, equipment, or other property, except that property may not be leased for any use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous materials as identified by the Commissioner of Agriculture be used or stored upon such property unless all applicable state and federal permits necessary are obtained;

(2) Transfer to the public land corporation land designated in its management plan as land to be disposed of, which land shall be sold, exchanged, or otherwise transferred pursuant to §5A-11-4 and §5A-11-5 of this code;

(3) Develop lands to which it has title for the public use including forestation, recreation, wildlife, stock grazing, agricultural production, rehabilitation, and/or other conservation activities and may contract or lease for the proper development of timber, oil, gas, or mineral resources, including coal by underground mining or by surface mining where reclamation as required by specifications of the Department of Environmental Protection will increase the beneficial use of such property;

(4) Upon 30 days' written notice to the lessee, cancel a lease to which the department is a

party and which is for annual consideration of less than $5 per acre: *Provided*, That the lease must contain a provision authorizing cancellation or impairment by the Legislature;

(5) Transfer land, or any interest therein, to another public body pursuant to the provisions of §1-5-1 through §1-5-5, inclusive, of this code; and

(6) Exercise all other powers and duties necessary to effectuate the purposes of this article.

(d) Notwithstanding the provisions of subsection (c) of this section, no timberland may be leased, sold, exchanged, or otherwise disposed of unless there is no commercially salable timber on the timberland, an inventory is provided, and an appraisal of the timber is provided.

(e) The commissioner may promulgate, pursuant to §29A-3-1 *et seq*. of this code, rules and regulations relating to the powers and duties of the commissioner as enumerated in this section.

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§19-12A-6. Commissioner's powers and duties.

The commissioner or his or her designee is responsible for conducting the operations of the farms and shall:

(1) Prepare an annual report of the farming operations, including a listing of all receipts and expenditures and shall present it to the Legislature at the end of each fiscal year.

(2) Prepare the annual budget request for the operation of the institutional farms.

(3) Receive and approve all requisitions for farm supplies and equipment.

(4) Supervise the operation of all canneries and determine what foods are to be canned.

(5) Recruit and approve assistant farm managers to supervise each institutional farm.

(6) Transfer farm supplies, farm equipment, farm facilities, food stuffs, and produce from one institutional farm to another to promote efficiency and improve farm management.

(7) Rent or lease additional land for farm use.

By September 30 each year, each institution under the control of the Department of Health Facilities and the Division of Corrections and Rehabilitation shall present to the commissioner a purchase order for its food requirements during the next fiscal year as determined by the institution. If, during the year, an institution finds that it needs other or additional food, milk, or commodities not included in its purchase order for the year, the institutional superintendent may forward a supplemental request to the commissioner, which order may be filled depending on availability. If institutional farms produce more food, milk, and other commodities than can be sold to the institutions, the commissioner may sell the surplus to other state agencies willing to purchase. If any surplus remains after sales to other state agencies, the commissioner may sell the surplus on the open market or turn over any surplus food products to appropriate public, nonprofit agencies.

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§19-12A-6a. Special revenue account.

Notwithstanding any provision of this code to the contrary, all funds collected by the department pursuant to this article, whether from the sale of food, the disposition of assets, including land, the lease of land or minerals or any other source, shall be paid into a special revenue account to be used for the purposes of this article: *Provided*, That when the remaining balance at the end of any fiscal year of the funds so collected and deposited in the special revenue account exceeds $1 million, the department may transfer the excess funds to the Department of Agriculture Capital Improvements Fund established in §19-1-4e of this code.

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§19-12A-7

Repealed

Acts, 2019 Reg. Sess., Ch. 6.

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§19-12A-8

Repealed

Acts, 2019 Reg. Sess., Ch. 6.

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§19-12A-9

Repealed

Acts, 1991 Reg. Sess., Ch. 86.

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