WEST VIRGINIA CODE CHAPTER 22C ARTICLE 11

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§22C-11-1. Creation of commission; members; terms; compact with other political units.

There is hereby created a commission consisting of three members, to act jointly with commissioners appointed for like purposes by the commonwealths of Pennsylvania and Virginia, the state of Maryland, and the District of Columbia, and an additional three members to be appointed by the president of the United States, and which, together with the other commissioners appointed as hereinbefore mentioned, shall constitute and be known as the "Interstate Commission on the Potomac River Basin." The said commission of the State of West Virginia shall consist of three members. The Governor, by and with the advice and consent of the Senate, shall appoint two persons as two of such commissioners, each of whom shall be a resident and citizen of this state. The terms of one of the said two commissioners first appointed shall be three years and of the other shall be six years; and their successors shall be appointed by the Governor, by and with the advice and consent of the Senate, for terms of six years each. Each commissioner shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of any such commissioner for any reason or cause shall be filled by appointment by the Governor, by and with the advice and consent of the Senate, for the unexpired term. The third commissioner from this state is the director of the Division of Environmental Protection, and the term of the ex officio commissioner terminates at the time he ceases to hold said office. Said ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his division or office, the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the commission. The term of each of the initial three members shall begin at the date of the appointment of the two appointive commissioners: Provided, That the compact hereinafter referred to shall then have gone into effect, in accordance with article six thereof, otherwise to begin upon the date said compact shall become effective, in accordance with said article six.

Any commissioner may be removed from office by the Governor.

The Governor of the State of West Virginia is hereby authorized and directed to execute a compact on behalf of the State of West Virginia, with the other states and the district hereinabove referred to, who may by their legislative bodies so authorize a compact in form substantially as follows:

A COMPACT

Whereas, It is recognized that abatement of existing pollution and the control of future pollution of interstate streams can best be promoted through a joint agency representing the several states located wholly or in part within the area drained by any such interstate streams; and

Whereas, The Congress of the United States has given its consent to the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of

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Columbia to enter into a compact providing for the creation of a conservancy district to consist of the drainage basin of the Potomac River and the main and tributary streams therein, for "the purpose of regulating, controlling, preventing, or otherwise rendering unobjectionable and harmless the pollution of the waters of said Potomac drainage area by sewage and industrial and other wastes"; and

Whereas, The regulation, control and prevention of pollution is directly affected by the quantities of water in said streams and the uses to which such water may be put, thereby requiring integration and coordination of the planning for the development and use of the water and associated land resources through cooperation with, and support and coordination of, the activities of federal, state, local and private agencies, groups, and interests concerned with the development, utilization and conservation of the water and associated land resources of the said conservancy district; now, therefore,

The states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of Columbia, hereinafter designated signatory bodies, do hereby create the Potomac valley conservancy district, hereinafter designated the conservancy district, comprising all of the area drained by the Potomac River and its tributaries; and also, do hereby create, as an agency of each signatory body, the interstate commission on the Potomac River basin, hereinafter designated the commission, under the articles of organization as set forth below.

Article I

The interstate commission on the Potomac River basin shall consist of three members from each signatory body and three members appointed by the president of the United States. Said commissioners, other than those appointed by the president, shall be chosen in a manner and for the terms provided by law of the signatory body from which they are appointed, and shall serve without compensation from the commission but shall be paid by the commission their actual expenses incurred and incident to the performance of their duties.

(A) The commission shall meet and organize within thirty days after the effective date of this compact, shall elect from its number a chairman and vice chairman, shall adopt suitable bylaws, shall make, adopt and promulgate such rules and regulations as are necessary for its management and control, and shall adopt a seal.

(B) The commission shall appoint, and at its pleasure, remove or discharge such officers and legal, engineering, clerical, expert and other assistants as may be required to carry the provisions of this compact into effect, and shall determine their qualifications and fix their duties and compensation. Such personnel as may be employed shall be employed without regard to any civil service or other similar requirements for employees of any of the signatory bodies. The commission may maintain one or more offices for the transaction of its business and may meet at any time within the area of the signatory bodies.

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(C) The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report thereof and shall in such report set forth in detail the operations and transactions conducted by it pursuant to this compact. The commission, however, shall not incur any obligations for administrative or other expenses prior to the making of appropriations adequate to meet the same nor shall it in any way pledge the credit of any of the signatory bodies. Each of the signatory bodies reserves the right to make at any time an examination and audit of the accounts of the commission.

(D) A quorum of the commission shall, for the transaction of business, the exercise of any powers, or the performance of any duties, consist of at least six members of the commission who shall represent at least a majority of the signatory bodies: Provided, That no action of the commission relating to policy or stream classification or standards shall be binding on any one of the signatory bodies unless at least two of the commissioners from such signatory body shall vote in favor thereof.

Article II

The commission shall have the power:

(A) To collect, analyze, interpret, coordinate, tabulate, summarize and distribute technical and other data relative to, and to conduct studies, sponsor research and prepare reports on, pollution and other water problems of the conservancy district.

(B) To cooperate with the legislative and administrative agencies of the signatory bodies, or the equivalent thereof, and with other commissions and federal, local governmental and nongovernmental agencies, organizations, groups and persons for the purpose of promoting uniform laws, rules or regulations for the abatement and control of pollution of streams and the utilization, conservation and development of the water and associated land resources in the said conservancy district.

(C) To disseminate to the public information in relation to stream pollution problems and the utilization, conservation and development of the water and associated land resources of the conservancy district and on the aims, views, purposes and recommendations of the commission in relation thereto.

(D) To cooperate with, assist, and provide liaison for and among, public and nonpublic agencies and organizations concerned with pollution and other water problems in the formulation and coordination of plans, programs and other activities relating to stream pollution or to the utilization, conservation or development of water or associated land resources, and to sponsor cooperative action in connection with the foregoing.

(E) In its discretion and at any time during or after the formulation thereof, to review and to comment upon any plan or program of any public or private agency or organization relating to stream pollution or the utilization, conservation or development of water or associated land resources.

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(F) (1) To make, and, if needful from time to time, revise and to recommend to the signatory bodies, reasonable minimum standards for the treatment of sewage and industrial or other wastes now discharged or to be discharged in the future to the streams of the conservancy district, and also, for cleanliness of the various streams in the conservancy district.

(2) To establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory bodies through appropriate agencies will prepare a classification of its interstate waters in the district in entirety or by portions according to present and proposed highest use, and for this purpose technical experts employed by appropriate state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two or more states. Each signatory body agrees to submit its classification of its interstate waters to the commission with its recommendations thereon.

The commission shall review such classification and recommendations and accept or return the same with its comments. In the event of return, the signatory body will consider the comments of the commission and resubmit the classification proposal, with or without amendment, with any additional comments for further action by the commission.

It is agreed that after acceptance of such classification, the signatory body through its appropriate state water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet or exceed standards established by the commission for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity and in a manner similar to that in which these standards and classifications were originally established.

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, bathing and other recreational purposes, maintenance and propagation of fish life, industrial and agricultural uses, navigation and disposal of wastes.

Article III

For the purpose of dealing with the problems of pollution and of water and associated land resources in specific areas which directly affect two or more, but not all, signatory bodies, the commission may establish sections of the commissions consisting of the commissioners from such affected signatory bodies: Provided, That no signatory body may be excluded from any section in which it wishes to participate. The commissioners appointed by the president of the United States may participate in any section. The commission shall designate, and from time to time may change, the geographical area with respect to which each section

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shall function. Each section shall, to such extent as the commission may from time to time authorize, have authority to exercise and perform with respect to its designated geographical area any power or function vested in the commission, and in addition may exercise such other powers and perform such functions as may be vested in such section by the laws of any signatory body or by the laws of the United States. The exercise or performance by a section of any power or function vested in the commission may be financed by the commission, but the exercise or performance of powers or functions vested solely in a section shall be financed through funds provided in advance by the bodies, including the United States, participating in such section.

Article IV

The moneys necessary to finance the commission in the administration of its business in the conservancy district shall be provided through appropriations from the signatory bodies and the United States, in the manner prescribed by the laws of the several signatory bodies and of the United States, and in amounts as follows:

The pro rata contribution shall be based on such factors as population; the amount of industrial and domestic pollution; and a flat service charge; as shall be determined from time to time by the commission, subject, however, to the approval, ratification and appropriation of such contribution by the several signatory bodies.

Article V

Pursuant to the aims and purposes of this compact, the signatory bodies mutually agree:

1. Faithful cooperation in the abatement of existing pollution and the prevention of future pollution in the streams of the conservancy district and in planning for the utilization, conservation and development of the water and associated land resources thereof.

2. The enactment of adequate and, insofar as is practicable, uniform legislation for the abatement and control of pollution and control and use of such streams.

3. The appropriation of biennial sums on the proportionate basis as set forth in article four.

Article VI

This compact shall become effective immediately after it shall have been ratified by the majority of the Legislatures of the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and by the commissioners of the District of Columbia, and approval by the Congress of the United States: Provided, That this compact shall not be effective as to any signatory body until ratified thereby.

Article VII

Any signatory body may, by legislative action, after one year's notice to the commission,

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withdraw from this compact.

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§22C-11-2. Appointment of alternates.

The Governor, by and with the consent of the Senate, shall appoint an alternate member for the two members of the commission who are not ex officio, and each alternate shall have power to act in the absence of the person for whom he is alternate. The Governor shall appoint the first alternates hereunder on or before July 1, 1949, the term of each alternate to run concurrently with the term of the member for whom he is alternate.

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§22C-11-3. Expenses of commission; appropriation; officers and employees; meetings.

The commissioners shall be reimbursed, out of moneys appropriated for such purposes, all sums which they necessarily shall expend in the discharge of their duties as members of such commission.

There shall be appropriated to the commission out of any moneys in the State Treasury unexpended and available therefor, and not otherwise appropriated, such sums as may be necessary for the uses and purposes of the commission in carrying out the provisions of this article and the payment of the proper proportion of the State of West Virginia of the expenses of the "Interstate Commission on the Potomac River Basin," in accordance with article four of said compact.

The commission shall elect from its membership a chairman and may also select a secretary who need not be a member. The commission may employ such assistants as it may deem necessarily required, and the duties of such assistants shall be prescribed and their compensation fixed by the commission and paid out of the State Treasury out of funds appropriated for such purposes upon the requisition of said commission.

The commission shall meet at such times and places as agreed upon by the commissioners or upon call of its chairman.

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§22C-11-4. Effective date; findings.

This article shall become effective upon the adoption of substantially similar amendments to the interstate compact by each of the signatory states to the compact, and upon the approval of the amendments to the compact by the Congress of the United States.

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§22C-11-5. Restrictions.

Neither the Governor of the State of West Virginia nor any member of the commission aforesaid, representing the State of West Virginia, shall consent to the construction of any dam, whether in the State of West Virginia, or without this state, which shall flood lands in this state, without the express consent of the Legislature.

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§22C-11-6.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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