WEST VIRGINIA CODE CHAPTER 22C ARTICLE 12

WV Legislature

§22C-12-1. Ohio River Valley Water Sanitation Compact approved.

The following Ohio River Valley Water Sanitation Compact, which has been negotiated by representatives of the states of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia, is hereby approved, ratified, adopted, enacted into law, and entered into by the State of West Virginia as a party thereto and signatory state, namely:

OHIO RIVER VALLEY WATER SANITATION COMPACT

Whereas, A substantial part of the territory of each of the signatory states is situated within the drainage basin of the Ohio River; and

Whereas, The rapid increase in the population of the various metropolitan areas situate within the Ohio drainage basin, and the growth in industrial activity within that area, have resulted in recent years in an increasingly serious pollution of the waters and streams within the said drainage basin, constituting a grave menace to the health, welfare, and recreational facilities of the people living in such basin, and occasioning great economic loss; and

Whereas, The control of future pollution and the abatement of existing pollution in the waters of said basin are of prime importance to the people thereof, and can best be accomplished through the cooperation of the states situated therein, by and through a joint or common agency;

Now, Therefore, the states of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee and West Virginia do hereby covenant and agree as follows:

Article I

Each of the signatory states pledges to each of the other signatory states faithful cooperation in the control of future pollution in and abatement of existing pollution from the rivers, streams and waters in the Ohio River basin which flow through, into or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such state to place and maintain the waters of said basin in a satisfactory sanitary condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits, and adaptable to such other uses as may be legitimate.

Article II

The signatory states hereby create a district to be known as the "Ohio River valley water sanitation district," hereinafter called the district, which shall embrace all territory within the signatory states, the water in which flows ultimately into the Ohio River, or its tributaries.

Article III

WV Legislature

The signatory states hereby create the "Ohio River valley water sanitation commission," hereinafter called the commission, which shall be a body corporate, with the powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective Legislatures of the signatory states or by act or acts of the Congress of the United States.

Article IV

The commission shall consist of three commissioners from each state, each of whom shall be a citizen of the state from which he is appointed, and three commissioners representing the United States government. The commissioners from each state shall be chosen in the manner and for the terms provided by the laws of the state from which they shall be appointed, and any commissioner may be removed or suspended from office as provided by the law of the state from which he shall be appointed. The commissioners representing the United States shall be appointed by the president of the United States, or in such other manner as may be provided by Congress. The commissioners shall serve without compensation, but shall be paid their actual expenses incurred in and incident to the performance of their duties; but nothing herein shall prevent the appointment of an officer or employee of any state or of the United States government.

Article V

The commission shall elect from its number a chairman and vice chairman, and shall appoint, and at its pleasure remove or discharge, such officers and legal, clerical, expert and other assistants as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications and compensation. It shall adopt a seal and suitable bylaws, and shall adopt and promulgate rules and regulations for its management and control. It may establish and maintain one or more offices within the district for the transaction of its business, and may meet at any time or place. One or more commissioners from a majority of the member states shall constitute a quorum for the transaction of business.

The commission shall submit to the Governor of each state, at such time as he may request, a budget of its estimated expenditures for such period as may be required by the laws of such state for presentation to the Legislature thereof.

The commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time to the inspection of such representatives of the respective signatory states as may be duly constituted for that purpose.

On or before December 1, of each year, the commission shall submit to the respective Governors of the signatory states a full and complete report of its activities for the preceding year.

WV Legislature

The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the signatory states, except by and with the authority of the Legislature thereof.

Article VI

It is recognized by the signatory states that no single standard for the treatment of sewage or industrial wastes is applicable in all parts of the district due to such variable factors as size, flow, location, character, self-purification, and usage of waters within the district. The guiding principle of this compact shall be that pollution by sewage or industrial wastes originating within a signatory state shall not injuriously affect the various uses of the interstate waters as hereinbefore defined.

All sewage from municipalities or other political subdivisions, public or private institutions, or corporations, discharged or permitted to flow into these portions of the Ohio River and its tributary waters which form boundaries between, or are contiguous to, two or more signatory states, or which flow from one signatory state into another signatory state, shall be so treated, within a time reasonable for the construction of the necessary works, as to provide for substantially complete removal of settleable solids, and the removal of not less than forty-five percent of the total suspended solids: Provided, That in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in article I, in specific instances such higher degree of treatment shall be used as may be determined to be necessary by the commission after investigation, due notice and hearing.

All industrial wastes discharged or permitted to flow into the aforesaid waters shall be modified or treated, within a time reasonable for the construction of the necessary works, in order to protect the public health or to preserve the waters for other legitimate purposes, including those specified in article I, to such degree as may be determined to be necessary by the commission after investigation, due notice and hearing.

All sewage or industrial wastes discharged or permitted to flow into tributaries of the aforesaid waters situated wholly within one state shall be treated to that extent, if any, which may be necessary to maintain such waters in a sanitary and satisfactory condition at least equal to the condition of the waters of the interstate stream immediately above the confluence.

The commission is hereby authorized to adopt, prescribe and promulgate rules, regulations and standards for administering and enforcing the provisions of this article.

Article VII

Nothing in this compact shall be construed to limit the powers of any signatory state, or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state, imposing additional conditions and restrictions to further lessen or

WV Legislature

prevent the pollution of waters within its jurisdiction.

Article VIII

The commission shall conduct a survey of the territory included within the district, shall study the pollution problems of the district, and shall make a comprehensive report for the prevention or reduction of stream pollution therein. In preparing such report, the commission shall confer with any national or regional planning body which may be established, and any department of the federal government authorized to deal with matters relating to the pollution problems of the district. The commission shall draft and recommend to the Governors of the various signatory states uniform legislation dealing with the pollution of rivers, streams and waters and other pollution problems within the district. The commission shall consult with and advise the various states, communities, municipalities, corporations, persons, or other entities with regard to particular problems connected with the pollution of waters, particularly with regard to the construction of plants for the disposal of sewage, industrial and other waste. The commission shall, more than one month prior to any regular meeting of the Legislature of any state which is a party thereto, present to the Governor of the state its recommendations relating to enactments to be made by any Legislature in furthering the intents and purposes of this compact.

Article IX

The commission may from time to time, after investigation and after a hearing, issue an order or orders upon any municipality, corporation, person or other entity discharging sewage or industrial waste into the Ohio River or any other river, stream or water, any part of which constitutes any part of the boundary line between any two or more of the signatory states, or into any stream any part of which flows from any portion of one signatory state through any portion of another signatory state. Any such order or orders may prescribe the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of. The commission shall give reasonable notice of the time and place of the hearing to the municipality, corporation or other entity against which such order is proposed. No such order shall go into effect unless and until it receives the assent of at least a majority of the commissioners from each of not less than a majority of the signatory states; and no such order upon a municipality, corporation, person or entity in any state shall go into effect unless and until it receives the assent of not less than a majority of the commissioners from such state.

It shall be the duty of the municipality, corporation, person or other entity to comply with any such order issued against it or him by the commission, and any court of general jurisdiction or any United States district court in any of the signatory states shall have the jurisdiction, by mandamus, injunction, specific performance or other form of remedy, to enforce any such order against any municipality, corporation or other entity domiciled or located within such state or whose discharge of the waste takes place within or adjoining such state, or against any employee, department or subdivision of such municipality, corporation, person or other entity: Provided, That such court may review the order and

WV Legislature

affirm, reverse or modify the same upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The commission or, at its request, the Attorney General or other law-enforcing official, shall have power to institute in such court any action for the enforcement of such order.

Article X

The signatory states agree to appropriate for the salaries, office and other administrative expenses, their proper proportion of the annual budget as determined by the commission and approved by the Governors of the signatory states, one half of such amount to be prorated among the several states in proportion to their population within the district at the last preceding federal census, the other half to be prorated in proportion to their land area within the district.

Article XI

This compact shall become effective upon ratification by the Legislatures of a majority of the states located within the district and upon approval by the Congress of the United States; and shall become effective as to any additional states signing thereafter at the time of such signing.

In Witness Whereof, the various signatory states have executed this compact through their respective compact commissioners.

WV Legislature

§22C-12-2. Appointment of members of commission; director of Division of Environmental Protection member ex officio.

In pursuance of article four of said compact, there shall be three members of the "Ohio River valley water sanitation commission" from the State of West Virginia. 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 from 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, ex officio, and the term of the ex officio commissioner terminates at the time he ceases to hold the office of director of the Division of Environmental Protection, and his successor as a commissioner shall be his successor as the director of the Division of Environmental Protection. With the exception of the issuance of any order under the provisions of article nine of the compact, the 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 terms of each of the initial three members shall begin at the date of the appointment of the two appointive commissioners, provided the said compact shall then have gone into effect in accordance with article eleven of the compact; otherwise shall begin upon the date which said compact shall become effective in accordance with said article eleven.

Any commissioner may be removed from office by the Governor.

WV Legislature

§22C-12-3. Powers of commission; duties of state officers, departments, etc.; jurisdiction of circuit courts; enforcement of article.

There is hereby granted to the commission and commissioners thereof all the powers provided for in the said compact and all the powers necessary or incidental to the carrying out of said compact in every particular. All officers of this state are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary to or incidental to the carrying out of said compact in every particular; it being hereby declared to be the policy of this state to perform and carry out the said compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the state government or administration of this state of West Virginia are hereby authorized and directed at convenient times and upon request of the said commission to furnish the said commission with information and data possessed by them or any of them and to aid said commission by loan of personnel or other means lying within their legal powers respectively.

The circuit courts of this state are hereby granted the jurisdiction specified in article nine of said compact, and the Attorney General or any other law-enforcing officer of this state is hereby granted the power to institute any action for the enforcement of the orders of the commission as specified in said article nine of the compact.

WV Legislature

§22C-12-4. Powers granted herein supplemental to other powers vested in commission.

Any powers herein granted to the commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said commission by other laws of this state or by the laws of the states of Illinois, Indiana, Kentucky, New York, Ohio, Pennsylvania, Tennessee, or by Congress or the terms of said compact.

WV Legislature

§22C-12-5. Expenses of commission; appropriations; 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 annual budget of the "Ohio River valley water sanitation commission" in accordance with article ten 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 assistance 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.

WV Legislature

§22C-12-6. When article effective; findings; continuation.

This article shall take effect and become operative and the compact be executed for and on behalf of this state only from and after the approval, ratification, adoption and entering into thereof by the states of New York, Pennsylvania, Ohio and Virginia.

WV Legislature