

Rec., June 3

116

ENROLLED BILL

(EXTRAORDINARY SESSION, 1933)

COM. SUB. for

House Bill No. 116

(By Mr. _____)

Passed June 3, 1933

In Effect from Passage

Originated in the *House* Takes effect. *James* Passage
Geo. Wallace Clerk House of Delegates.
Clerk. *Geo. Wallace*

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James L. Smith Chairman House Committee.
Charles D. Smith Chairman Senate Committee.

ENROLLED BILL

(Com. Sub. for H. B. No. 116)

[Passed June 3, 1933: in effect from passage.]

AN ACT to amend and reenact sections one to eight, inclusive, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by substituting therefor sections one to fifteen, inclusive, and by adding articles one-(a) and eight-(a), relating to the organization and duties of the conservation commission.

Be it enacted by the Legislature of West Virginia:

That sections one to eight, inclusive, article one, chapter twenty of the code of West Virginia of one thousand nine hundred thirty-one, as amended, be amended and reenacted by substituting therefor sections one to fifteen, inclusive, and that articles one-(a) and eight-(a) be added to read as follows:

ARTICLE I.

Section 1. The purpose of this chapter is to provide an or-

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3 ganization for the protection, beautification, development, and
4 use of lands, forests, fish, game, waters, plant and animal life,
5 and the natural and scenic resources of this state; and for the
6 use of forest lands and other natural resources for projects to
7 relieve unemployment in this state.

Sec. 2. To accomplish the above purposes there is hereby
2 created "The conservation commission of West Virginia,"
3 which shall be a public benefit corporation, and, as such may
4 sue and be sued, contract and be contracted with, and it shall
5 have a common seal.

Sec. 3. The commission shall consist of five members and a
2 director of conservation. The members and the director shall
3 be appointed by the governor, with the advice and consent of the
4 senate.

Sec. 4. The term of office of members of the commission
2 shall be six years, except that the governor, upon the adoption
3 of this act, shall appoint the members of the commission upon
4 the following basis: Two members for a term of six years; two
5 members for a term of four years and two members for a term
6 of two years. As these appointments expire, all appointments
7 shall be made for six year terms.

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Sec. 5. The members of the commission shall be selected with
2 special reference to their training and experience in relation
3 to the principal activities required of the commission, and for
4 their ability and fitness to perform their duties within the pur-
5 poses of this chapter.

6 No member of the commission shall be a candidate for or hold
7 any public office other than that of member of the commission;
8 nor shall he be a member of any committee of a political party.
9 In case a member becomes a candidate for or is appointed to
10 any public office or political committee, his office as member of
11 the commission shall be immediately vacated.

Sec. 6. Members of the commission shall take and subscribe
2 to the oath prescribed by the constitution before entering upon
3 their duties. Their oaths shall be filed with the secretary of
4 state.

Sec. 7. The director shall be the presiding officer of the
2 commission. A majority of the commission shall constitute a
3 quorum for the conduct of official business.

Sec. 8. Each member of the commission shall receive his
2 actual and necessary traveling expense incurred in the per-
3 formance of his duties.

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Sec. 9. The office and place of meeting of the commission
2 shall be the office of the director of conservation in the state
3 capitol.

Sec. 10. The commission shall hold four regular sessions 2 each year, as follows: On the first Monday in the months of 3 July, October, January and April. Special meetings may be 4 convened on the call of the director of conservation, the gov- 5 ernor or a majority of the commission.

Sec. 11. The members of the commission shall serve only
2 as an advisory body to the director of conservation, and, as
3 such, shall have the following powers and duties:

4 (1) To consider and study the entire field of legislation and
5 administrative methods concerning the forests and their main-
6 tainance and development, the protection of fish and game, the
7 beautification of the state and its highways, and the develop-
8 ment of lands and natural resources;

9 (2) To advise with the director concerning the conservation
10 problems of particular localities or districts of the state;

11 (3) To recommend policies and practices to the director re-
12 lative to any duties imposed upon him by law;

13 (4) To investigate the work of the director and for this pur-

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14 pose to have access at reasonable times to all official books,
15 papers, documents, and records;

16 (5) To advise or make recommendations to the governor re-
17 lative to the conservation policy of the state; and

18 (6) To keep minutes of the transactions of each session, reg-
19 ular or special, which shall be public records and filed with the
20 director.

Sec. 12. The director of conservation may submit to the
2 commission or any committee thereof at any regular or special
3 meeting any matter upon which he desires the advice or opinion
4 of the commission.

Sec. 13. The director of conservation shall furnish the com-
2 mission with all articles and supplies required for the public
3 use and necessary to enable the commission to perform the
4 duties imposed upon it by law. Such articles and supplies
5 shall be obtained and accounted for as if obtained and used by
6 the director.

Sec. 14. Upon the request of the commission the director
2 shall and upon his own initiative he may incorporate the pro-
3 ceedings of the commission in his report to the governor.

Sec. 15. The expenses of the commission shall be paid en-

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2 tirely out of collections made under this chapter and segregated
3 as provided by section two, article two, chapter twelve of the
4 code.

ARTICLE I-A.

Section 1. The governor, with the advice and consent of
2 the senate, shall appoint, for a term of six years, a director of
3 conservation. The director shall devote his entire time to the
4 duties of his office.

Sec. 2. The director shall be selected with special reference
2 to his training, experience, capacity and interest in the activi-
3 ties embraced within this chapter.

4 He shall not be a candidate for or hold any other public
5 office; nor shall he be a member of any committee of a political
6 party. In case he becomes a candidate for or is appointed to
7 another public office or on a political committee, his office as
8 director of conservation shall be immediately vacated.

Sec. 3. The director before entering upon the duties of his
2 office shall take and subscribe to the oath prescribed by the con-
3 stitution. He shall also execute a bond approved by the gov-
4 ernor in the penalty of five thousand dollars for the faithful
5 performance of his duties as director, and in case a surety com-

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6 pany executes such bonds the premiums shall be paid out of
7 the funds of the commission. The bond and the oath shall be
8 filed with the secretary of state.

Sec. 4. The offices of the director shall be located in the
2 state capitol building. The director shall keep his offices open
3 at all reasonable times for the transaction of public business.

Sec. 5. The director shall receive a salary of four thousand
2 dollars per annum and the necessary traveling expenses inci-
3 dent to the performance of his duties. Requisition for travel-
4 ing expenses shall be accompanied by a sworn and itemized
5 statement which shall be filed with the auditor and preserved
6 as a public record.

Sec. 6. The director shall appoint the heads of the divisions
2 of the department and shall employ such assistants and em-
3 ployees as may be necessary to the efficient operation of his de-
4 partment, and fix their salaries.

Sec. 7. The director, in addition to the other powers granted
2 by this chapter, shall have the sole authority to:

- 3 (1) Exercise general supervision of, and make rules and reg-
4 ulations for the government of his commission or department;
5 (2) Sign and execute in the name of the state by "The con-

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6 servation commission of West Virginia" any contract or agree-
7 ment with the federal government or its departments, subdivi-
8 sions of the state, corporations, associations, copartnerships or
9 individuals;

10 (3) Supervise the fiscal affairs and responsibilities of the
11 department;

12 (4) Make a general conservation plan or program for the
13 state; conduct research in improved conservation methods and
14 disseminate information on conservation matters to the resi-
15 dents of the state;

16 (5) Organize his department to give adequate treatment to
17 the problems of fish and game, forestry, parks and playgrounds,
18 natural resources and publicity;

19 (6) Alter the open seasons and bag limits as provided in this
20 chapter;

21 (7) Designate such localities as he shall determine to be nec-
22 essary and desirable for the perpetuation of any species of fish
23 and for the purpose of replenishing adjacent fishing waters;

24 (8) Designate such localities as he shall determine to be nec-
25 essary and desirable for the perpetuation of any species of

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26 game bird or animal and for the purpose of replenishing ad-

27 jacent hunting grounds;

28 (9) Enter private lands to make surveys or inspections for
29 conservation purposes; and

30 (10) Acquire by purchase, condemnation, lease, or agree-
31 ment or receive by gifts or devise, lands or waters suitable for
32 the following purposes:

33 (a) For state forests for the purpose of growing timber,
34 demonstrating forestry, protecting watersheds or providing
35 public recreation;

36 (b) For state parks for the purpose of preserving scenic or
37 historical values or natural wonders;

38 (c) For public shooting, trapping or fishing grounds or
39 waters for the purpose of providing areas in which any citizen
40 may hunt, trap or fish;

41 (d) For fish hatcheries and game farms;

42 (e) For forest nurseries and experimental stations;

43 (f) To extend and consolidate lands or waters suitable for
44 the above purposes by exchange of other lands or waters under
45 his supervision;

46 (11) Capture, propagate, transport, sell or exchange any

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47 species of game or fish needed for stocking any lands or waters
48 of this state;

49 (12) Exercise the powers granted by this chapter for the
50 protection of forests;

51 (13) Regulate fires and smoking in the woods or in their
52 proximity at such times and in such localities as is necessary
53 to reduce the danger of forest fires;

54 (14) Cooperate with the state road commissioner in the
55 beautification of state highways;

56 (15) Cooperate with other departments and agencies of the
57 state and federal government;

58 (16) Keep a complete and accurate record of all proceedings,
59 record and file all bonds and contracts taken or entered into,
60 and assume responsibility for the custody and preservation of
61 all papers and documents pertaining to his office. Rules and
62 regulations shall be recorded in a book especially kept for that
63 purpose, and in his discretion may be published for general
64 circulation. All other records and entries necessary to show
65 the official conduct of the department shall be preserved and
66 shall be public records and open for inspection during business
67 hours;

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68 (17) Purchase as provided by law all equipment necessary
69 for the conduct of his department;

70 (18) Report to the governor each year all information re-
71 lative to the operation and functions of his department. He
72 shall make such other reports and recommendations as may be
73 required by the governor;

74 (19) Exercise any other power that may be necessary or
75 proper for the orderly conduct of his business and the effective
76 discharge of his duties. Invoke any legal or equitable remedies
77 for the enforcement of his orders or the provisions of this chap-
78 ter;

79 (20) This section shall not be construed as authorizing the
80 director to change any penalty for violating any game law or
81 regulation, or change the amount of any license established by
82 the legislature, or to extend any open season or bag limit on
83 migratory birds prescribed by federal law or regulation.

Sec. 8. All powers and duties vested in the director, except
2 the power to sign contracts, may be exercised by the appointees
3 or employees of the director at his discretion; but the director
4 shall be responsible for their acts.

Sec. 9. The attorney general and his assistants and the

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2 prosecuting attorneys of the several counties shall render to the
3 director, without additional compensation, such legal services
4 as he shall require of them in the discharge of his duties under
5 the provisions of this chapter.

Sec. 10. The powers and duties granted by chapter twenty
2 of the code of West Virginia, one thousand nine hundred thirty-
3 one, as amended, to any officer, board, or commission, or else-
4 where vested in the game, fish and forestry commission or com-
5 missioner, shall now be vested in the director of conservation.
6 He shall have possession of all records, papers, equipment and
7 property of every nature now belonging to the game, fish and
8 forestry commission.

ARTICLE VIII-A.

Section 1. It is the purpose of this article that the state of
2 West Virginia shall extend its cooperation to all provisions of
3 acts of congress now in force, or hereafter enacted, providing
4 for cooperations between states and the United States in the
5 relief of hardship and unemployment through acquisition and
6 development by this state of lands, of state forests, state forest
7 parks, and the public recreational facilities, fish and game
8 refuges therein.

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Sec. 2. In order to give effect to this policy, the director of
2 conservation, with the consent of the governor, may enter into
3 contracts or agreements with the government of the United
4 States or any of its agencies in accordance with subsection two,
5 section seven, article one-(a), of this chapter.

Sec. 3. The director of conservation may, as provided in
2 subsection ten, section seven, article one-(a), of this chapter,
3 procure with the approval of the governor by purchase, lease
4 or agreement any lands necessary to carry into effect the pur-
5 poses of this article.

Sec. 4. There is hereby created a fund to be known as the
2 "State forest land fund," which shall consist of the income set
3 aside by section eleven, article seven of this chapter, as amended,
4 and all other moneys which may be received or collected under
5 the provisions of this article with the exception of moneys re-
6 ceived from the government of the United States or any agency
7 thereof for the purchase of lands. The proceeds of this fund
8 shall be used solely for the liquidation of any indebtedness in-
9 curred for the purchase or administration of lands under the

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10 provisions of this article, until such indebtedness has been en-
11 tirely discharged.

12 The fund shall then be used for the acquisition of forest lands,
13 for conservation and work relief purposes, and for the improve-
14 ment, development and maintenance of the natural resources,
15 plant and animal life of this state.

16 All income derived from sale, exchange or management of
17 state forest lands, or from the sale of timber, cuttings or stump-
18 age, or from the lease of oil, gas and mineral rights; sale of
19 camp sites, leasing of camp building material, by the director of
20 conservation shall be deposited in the "State forest land fund."

21 In order efficiently to administer the "State forest land fund"
22 for the accomplishment of the purposes set forth in this act, the
23 director of conservation is hereby authorized to pledge such sum
24 or sums from said fund as in his discretion, and with the ap-
25 proval of the governor, may be necessary for the liquidation of
26 loans from the government of the United States or any agency
27 thereof.

Sec. 5. If, and when, as a result of any work done by the
2 establishment of conservation works camps on the state forest

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3 lands, the state of West Virginia derives a direct profit from
4 sale of such lands or their products the proceeds shall be equally
5 divided between the state of West Virginia and the federal gov-
6 ernment until the state shall have paid for the work done at
7 the rate of one dollar per man per day for the time spent on
8 projects, subject to a maximum of three dollars per acre.

Sec. 6. The director of conservation, with the consent of the
2 governor, may, in the name of "The conservation commission
3 of West Virginia," negotiate loans from the government of the
4 United States or any proper agency thereof for the purchase
5 as provided by law of such lands as may be necessary for the
6 purposes of this article. Such loans shall be self-liquidating
7 out of the income of the "State forest land fund."

Sec. 7. In order to consolidate forest tracts under either
2 state or federal administration, the director of conservation may
3 sell, purchase or exchange stumpage or lands within or adjacent
4 to any national forest purchase area within the state.

5 At the expiration of the present emergency the director, upon
6 the request of the government of the United States or any
7 proper agency thereof, shall convey to the United States such
8 title and interest as acquired by the state of West Virginia or

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9 its agents in any lands acquired by the expenditure of moneys
10 granted outright to the state by the United States.

Sec. 8. In carrying into effect the provisions of this article
2 the director of conservation in addition to powers elsewhere
3 granted, shall have the authority to:

4 (1) Make rules and regulations for the use and occupancy
5 of lands and other property under his control;

6 (2) Provide and develop facilities for outdoor recreation in-
7 cluding the leasing of camp sites and the sale of camp building
8 materials;

9 (3) Remove and dispose of forest and mineral products in-
10 cidental to the protection, reforestation and proper develop-
11 ment of lands under his control; and

12 (4) Conduct such investigations and research as may be
13 necessary for the proper conduct of his work. To this end the
14 director shall utilize the facilities of the West Virginia uni-
15 versity insofar as they may be adequate.

Sec. 9. If any term or provision of this act shall be declared
2 unconstitutional or ineffective in whole or in part by a court
3 of competent jurisdiction, then to the extent that it is not un-
4 constitutional or ineffective, such term or proviso shall be in

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5 force and effect; nor shall such determination be deemed to in-
6 validate the remaining terms or provisions of this act.

Sec. 10. That all laws and clauses of laws in conflict with the
2 provisions of this act are hereby repealed.

Sec. 11. That this act shall be in force and effect from date
2 of passage.

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Wm. A. D. L. S.
.....
Chairman Senate Committee.

Wm. H. Hines
.....
Speaker of the House of Delegates.

Geo. H. Hance
.....
Clerk of the House of Delegates.

Wm. M. Mauney
.....
President of the Senate.

Frank D. Lind
.....
Clerk of the Senate.

The within is.....*approved*.....

this...*9th*... day of...*June*..... 1933.

W. S. O'Brien
.....
Governor.

James L. Smith
.....
Chairman House Committee.

Filed in the office of the Secretary of State
of West Virginia. *JUN 12 1933*
Wm. S. O'BRIEN,
Secretary of State