WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1943

ENROLLED

HOUSE BILL No. 215
Originating in the Committee
(By Mr. on Game & Fish)

PASSED March 6, 1943
In Effect 30 days from Passage
ENROLLED

House Bill No. 215

(Originating in the Committee on Game and Fish)

[Passed March 6, 1943; in effect ninety days from passage.]

AN ACT to amend and reenact sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, article one; to add new sections to be numbered four-a and sixteen to article one; to amend and reenact sections one, three, six, seven, eight, nine and eleven, article one-a; to repeal section ten, article one-a, and to add a new section to be numbered one-a to article eight; all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the reorganization and powers of the conservation commission of West Virginia.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, article one, be amended and reenacted; and that said article one be further amended by adding thereto
new sections to be numbered four-a and sixteen; that sections one, three, six, seven, eight, nine and eleven of article one-a be amended and reenacted; and that section ten of said article one-a be repealed; that article eight be amended by adding thereto a new section to be numbered one-a, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as heretofore amended, to read as follows:


Section 3. Members of the Commission.—The conservation commission shall be composed of seven members, one of whom shall be appointed for each of the six congressional districts of West Virginia, and the seventh from the state at large. The members shall be appointed by the governor, with the advice and consent of the Senate.

Sec. 4. Terms of Office.—The terms of office of the members shall be eight years, except that members in office when this section becomes effective shall continue to hold their respective offices until the expiration of their respective terms and until their successors are appointed and qualified. On or before July first, one thousand nine hundred forty-three, the governor shall appoint...
two members to bring the present membership of the commission to seven members. Within thirty days from the effective date of this section the commission shall submit two lists of names to the governor to fill the new appointments. The commission shall submit one list to fill an appointment from the second congressional district for a term ending June thirtieth, one thousand nine hundred forty-four; a list to fill an appointment from the sixth congressional district for a term ending June thirtieth, one thousand nine hundred forty-six, and the governor shall make his appointments from such lists on or before July first, one thousand nine hundred forty-three. On or before June first, one thousand nine hundred forty-three, the commission shall submit lists of names to the governor to replace present members of the commission whose terms expire June thirtieth, one thousand nine hundred forty-three, one appointee to be from the first congressional district for a term ending June thirtieth, one thousand nine hundred forty-eight, and the other appointee to be from the fifth congressional district for a term ending June thirtieth, one
thousand nine hundred forty-nine, and the governor shall make appointments from such lists on or before July first, one thousand nine hundred forty-three. Nominations and appointments made for those members whose terms expire June thirtieth, one thousand nine hundred forty-four, second congressional district; June thirtieth, one thousand nine hundred forty-five, member-at-large; and June thirtieth, one thousand nine hundred forty-six, sixth congressional district; shall be made under provisions of section four-a of this article and shall be for the full term of eight years. On or before the fifteenth day of May, one thousand nine hundred forty-seven, the commission shall submit to the governor two lists of nominees for the terms expiring June thirtieth, one thousand nine hundred forty-seven; one list from the third congressional district to be for an appointment ending June thirtieth, one thousand nine hundred fifty-one, and the other from the fourth congressional district for a full term of eight years. At the expirations of appointments provided in this section all other ap-
pointments shall be in the manner provided for by section four-a of this article.

Sec. 4-a. Nomination and Appointment of Member or Members.—At its April meeting in each year after the year one thousand nine hundred forty-three, the commission shall hold a regular session for the purpose of selecting names to be submitted to the governor as nominees for appointment to the commission for any term expiring on June thirtieth next, or to fill any vacancy. The commission shall prepare and submit to the governor a list of not less than three names for each vacancy to be filled. Appointments to fill such vacancies shall be made from such a list or lists. Vacancies shall not be filled except in the manner provided. No nominations shall be made for the year one thousand nine hundred fifty nor for every eighth year thereafter: Provided, however, That members of the commission who serve after July one, one thousand nine hundred forty-three, for less than a full term of eight years, shall be eligible for reappointment for a full term.

Sec. 5. Qualifications of Members; Political Activities
to Vacate Office.—The members of the commission shall be citizens and residents of this state selected with special reference to their training and experience in relation to the principal activities required of the commission, and for their ability and fitness to perform their duties within the purpose of this chapter. No member of the commission shall be a candidate for, nor, hold any elective or appointive public office other than that of a member of the commission nor shall he be employed by nor receive compensation in any department of the executive, administrative or judicial branches of the government of this state, Provided, however, That employment of an occupational nature, such as by way of illustration, but not of limitations, a teacher or the like shall not operate to disqualify such a member. In the event any member of the commission becomes a candidate for or is appointed to any public office, his office as a member of the commission shall immediately be vacated.

Sec. 7. Quorum.—A majority of the commission members shall constitute a quorum for the transaction of business.
Sec. 8. Travel Expenses.—Each member of the commission shall receive re-imbursement for his actual and necessary traveling expenses incurred in the performance of his official duties. Members of the commission shall serve without payment for their services.

Sec. 10. Regular and Special Meetings.—The commission shall hold four regular sessions each year, as follows: On the first Monday in the months of July, October, January and April, special meetings may be convened on the call of the executive director, the governor or a majority of the commission by written notice to all members. At the meeting held in July of each year, the commission shall elect one of its members as chairman and one of its members as vice-chairman to act as presiding officer at meetings of the commission. Such officers shall hold office for a period of one year.

Sec. 11. Powers and Duties of the Commission.—The commission, in addition to the other powers contained in this chapter, shall have the authority to:

1. Make rules and regulations for the government of the various divisions within the commission;
(2) Consider and study the entire field of legislation and administrative methods concerning the forests and their maintenance and development, the protection of fish and game, the beautification of the state and its highways, and the development of lands and natural resources;

(3) Consider the conservation problems of particular localities or districts of the state;

(4) Formulate policies and practices for the director relative to any duties imposed upon him by law;

(5) Investigate the work of the director and for this purpose to have access at reasonable times to all official books, papers, documents and records;

(6) Advise or make recommendations to the governor relative to the conservation policy of the state;

(7) Keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the director;

(8) Sign and execute in the name of the state any contract or agreement with the federal government or
its departments, sub-divisions of the state, corporations,
associations, co-partnerships or individuals;

(9) Make a general conservation plan or program for
the state; conduct research in improved conservation
methods and disseminate information on conservation
to residents of the state;

(10) Organize departments or divisions for proper ad-
ministration and functioning of the problems of game,
fish and other wildlife, forestry, parks, natural resources
and publicity;

(11) Set and alter the open seasons and bag-limits
for game and fish, closing of streams and other pro-
visions for the protection, management or propagation
of game, fish and other wildlife;

(12) Designate such localities as the commission shall
determine to be necessary and desirable for the per-
petuation of any species of fish and for the purpose of
replenishing adjacent fishing waters;

(13) Designate such localities as the commission shall
determine to be necessary and desirable for the perpetua-
tion of any species of game bird or animal and for the
purpose of replenishing adjacent hunting grounds;
(14) Enter private lands to make surveys or investigations for conservation purposes;
(15) Acquire by purchase, condemnation, lease or agreement or receive by gifts or devise, lands or waters suitable for the following purposes:
(a) For state forests for the purpose of growing timber, demonstration forests, protecting water-sheds or providing public recreation;
(b) For state parks for the purpose of preserving scenic or historical or natural wonders or providing public recreation;
(c) For public shooting, trapping or fishing grounds or waters for the purpose of providing areas in which any citizen may hunt, trap or fish;
(d) For fish hatcheries and game farms;
(e) For forest nurseries and experimental stations;
(f) To extend and consolidate lands or waters suitable for the above purpose by exchange of other lands or waters;
(g) To acquire by deed or in any other manner from
the Public Lands Corporation such lands that are suitable for forestry and other allied matters;

(16) Capture, propagate, transport, sell or exchange any species of game or fish, including hides, furs or parts thereof;

(17) Exercise the powers of this chapter for the protection of forests and to cooperate with other agencies to this end;

(18) Cooperate with the state road commission in the development of roadside parks and planting of roadside slopes;

(19) Cooperate with other state and federal agencies to attain the objectives set forth in this chapter;

(20) Keep a complete and accurate record of all proceedings, record and file all bonds and contracts taken or entered into, and assume all responsibility of the custody and preservation of all papers and documents pertaining to the commission. Rules and regulations shall be recorded in a book kept especially for this purpose, and these rules and regulations may be pub-
lished for general circulation. All other records and
entries necessary to show the official conduct of the
department shall be preserved and shall be public
records and open for inspection during business
hours;

(21) The commission shall have the right to delegate
to the director all or any of the powers vested in it by
this section and to exercise the same by an order en-
tered upon the minutes of its meeting at any time. Such
order may be rescinded, revoked or modified at any
time;

(22) To devise, establish and put into effect a system
for the selection and employment of personnel, for the
purpose of insuring impartial selection of competent,
qualified personnel for the discharge of duties required
in the efficient handling of all matters required of per-
sonnel employed by the conservation commission, ex-
cepting, however, the director;

(23) Regulate fires in the woods or in their proximity
at such times and in such localities as is necessary to
reduce the danger of forest fires.
Sec. 12. Director to Submit Matters for Advice.—The executive director shall submit to the commission or any committee thereof at any regular or special meeting any matter upon which he desires the advice or opinion of the commission.

Sec. 14. Annual Report.—The commission shall prepare and present an annual report to the governor, covering its activities during the preceding fiscal year. It shall make recommendations to the Legislature regarding conservation, forestry, game and fish and other allied matters.

Sec. 16. Powers and Duties Transferred to Commission.—The powers and duties granted by chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to the director of conservation, to any officer, board or commission, or elsewhere vested in the game, fish and forestry commission or director, shall now be vested in the conservation commission. It shall have possession of all records, papers, equipment and property of every nature now belonging to the conservation commission. Wherever the word or words "director" or "director of conservation" shall ap-
12 pear or be mentioned in any section of this chapter, or
13 any other general law relating to conservation, game,
14 fish or forestry, the same shall be deemed to mean and
15 shall mean the "executive director of the conservation
16 commission of West Virginia," pursuant to the power and
17 authority vested in him by the said commission.

Article 1-A. Executive Director.

Section 1. Appointment; Term of Office.—The commis-
2 sion shall select a competent person to be known as the
3 executive director who shall be its chief administrative
4 officer and have charge of all activities under the juris-
5 diction of the commission. No member of the conserva-
6 tion commission and no person who has served thereon,
7 shall be eligible for selection as executive director until
8 the expiration of at least two years from resignation
9 or completion of term thereafter, the director shall serve
10 at the will and pleasure of the commission. The director
11 of conservation in office at the effective date of passage
12 of this section shall remain in office and serve as the execu-
13 tive director until his term of appointment expires. How-
14 ever, should a vacancy occur through resignation, death
or otherwise, the executive director shall be selected by
the commission as provided in this section.

Sec. 3. Oath and Bond.—The director before entering
upon the duties of his office shall take and subscribe to
the oath prescribed by the constitution. He shall also
execute a bond approved by the commission in the
penalty of five thousand dollars for the faithful perform-
ance of his duties as director, and in case a surety com-
pany executes such bonds the premiums shall be paid
out of the funds of the commission. The bond and the
oath shall be filed with the secretary of state.

Sec. 6. Heads of Divisions; Necessary Assistants and
Employees.—The director as authorized, by the commis-
sion, shall have charge of and direct, supervise and con-
trol all employees of the commission. With the approval
of the commission, he may make appointments and fix
salaries pursuant to regulations prescribed by the com-
misson. All employees shall be selected and employed
under the system established by sub-section twenty-two,
section eleven, article one of this chapter.

Sec. 7. Powers and Duties of the Director.—The di-
Sec. 8. Powers and Duties Exercised by Appointees.—

All powers and duties vested in the commission except the power to sign contracts, may be exercised by its appointees or employees pursuant to delegation of powers to be made by the commission.

Sec. 9. Legal Services by Attorney General and Prosecuting Attorneys.—The attorney general and his assistants and the prosecuting attorneys of the several counties shall render to the commission, without additional compensation, such legal services as it shall require of them in the discharge of its duties under the provisions of this chapter. The commission may, in an emergency and with prior approval of the attorney general, employ an attorney to act in proceedings wherein criminal charges are brought against an employee or appointee of the commission because of action taken in the line of duty. An amount not to exceed three hundred dollars may be expended by the commission for any one case.

Sec. 10. This section is hereby repealed.
Sec. 11. Assent to Cooperative Wildlife Projects.—The State of West Virginia hereby assents to the provision of the act of Congress entitled “An Act to provide that the United States shall aid the states in wildlife restoration projects and for other purposes,” approved September second, one thousand nine hundred thirty-seven, (Public No. four hundred fifteen, seventy-fifth Congress) and the commission through the executive director is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said act of Congress, in compliance with said act and with rules and regulations promulgated by the Secretary of Interior thereunder. Funds accruing to the state from license fees paid by hunters shall not be diverted for any purpose other than the activities of this chapter.

Article VIII. State Forests, Game and Fish Refuges and Public Shooting Grounds.

Section 1-a. Acquisition of Lands from the Public Lands Corporation.—In the event that the public land
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3 corporation is authorized to determine sub-marginal lands
4 which are suitable only for forestry, the commission is
5 hereby authorized to receive the title, administration and
6 control of the same, and in such cases to assert all the
7 rights of ownership incidental thereto and it shall have
8 the power to cut and sell timber; to mine and market
9 minerals or lease the same for such purpose; and in
10 general to do all and every act which the owner of any
11 land could do. Rents, royalties, income, issues and profits
12 from any such land are hereby appropriated to the use
13 of the commission, and shall be disbursed as follows:
14 Seventy-five percent shall go to the administration and
15 operating costs of the commission in its several branches,
16 one percent shall be paid into the state fund general
17 revenue and the remaining twenty-four percent shall
18 be paid to the sheriff of the county in which the land
19 from which such revenue is derived, lies. Funds paid to
20 any sheriff under the provision of this section shall be
21 disbursed in the same manner as though there were
22 taxes collected under the last levy laid, previous to the
23 receipt thereof. Such lands shall be entered in the name
of the commission on the land books of the county for
the proper district but no valuation shall be charged
against it. All such lands are hereby appropriated to
paramount public usage, from and after the time title
to or administration of same is transferred to the com-
mission.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray H. Ford
Chairman Senate Committee

Fred J. Rotoff
Chairman House Committee

Originated in the Committee on General Fish

Takes effect thirty days from passage.

Oscar Watkins
Clerk of the Senate

Clerk of the House of Delegates

James Paule
President of the Senate

Speaker House of Delegates

The within this the

day of , 1943.

Governor.

Filed in the office of the Secretary of State of West Virginia MAR 17 1943

Wm. S. Guene
Secretary of State