

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 Twenty days from Passage

215

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seven, eight, nine and eleven of article one-a be amended and reenacted; and that section ten of said article one-a be repealed; that article eight be amended by adding thereto a new section to be numbered one-a, all of chapter twenty of the code of West Virginia, one thousand nine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:

Article 1. Conservation Commission.

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

8 two members to bring the present membership of the
9 commission to seven members. Within thirty days from
10 the effective date of this section the commission shall
11 submit two lists of names to the governor to fill the new
12 appointments. The commission shall submit one list to
13 fill an appointment from the second congressional dis-
14 trict for a term ending June thirtieth, one thousand nine
15 hundred forty-four; a list to fill an appointment from the
16 sixth congressional district for a term ending June thir-
17 tieth, one thousand nine hundred forty-six, and the gov-
18 ernor shall make his appointments from such lists on
19 or before July first, one thousand nine hundred forty-
20 three. On or before June first, one thousand nine hun-
21 dred forty-three, the commission shall submit lists of
22 names to the governor to replace present members of
23 the commission whose terms expire June thirtieth, one
24 thousand nine hundred forty-three, one appointee to be
25 from the first congressional district for a term ending
26 June thirtieth, one thousand nine hundred forty-eight,
27 and the other appointee to be from the fifth congres-
28 sional district for a term ending June thirtieth, one

29 thousand nine hundred forty-nine, and the governor
30 shall make appointments from such lists on or before
31 July first, one thousand nine hundred forty-three. Nomi-
32 nations and appointments made for those members whose
33 terms expire June thirtieth, one thousand nine hundred
34 forty-four, second congressional district; June thirtieth,
35 one thousand nine hundred forty-five, member-at-large;
36 and June thirtieth, one thousand nine hundred forty-
37 six, sixth congressional district; shall be made under pro-
38 visions of section four-a of this article and shall be for
39 the full term of eight years. On or before the fifteenth
40 day of May, one thousand nine hundred forty-seven,
41 the commission shall submit to the governor two lists
42 of nominees for the terms expiring June thirtieth, one
43 thousand nine hundred forty-seven; one list from the
44 third congressional district to be for an appointment
45 ending June thirtieth, one thousand nine hundred fifty-
46 one, and the other from the fourth congressional dis-
47 trict for a full term of eight years. At the expirations
48 of appointments provided in this section all other ap-

49 pointments shall be in the manner provided for by sec-
50 tion four-a of this article.

Sec. 4-a. *Nomination and Appointment of Member or*
2 *Members.*—At its April meeting in each year after the
3 year one thousand nine hundred forty-three, the com-
4 mission shall hold a regular session for the purpose of
5 selecting names to be submitted to the governor as
6 nominees for appointment to the commission for any
7 term expiring on June thirtieth next, or to fill any va-
8 cancy. The commission shall prepare and submit to the
9 governor a list of not less than three names for each
10 vacancy to be filled. Appointments to fill such vacancies
11 shall be made from such a list or lists. Vacancies shall
12 not be filled except in the manner provided. No nomina-
13 tions shall be made for the year one thousand nine hun-
14 dred fifty nor for every eighth year thereafter: *Provided,*
15 *however,* That members of the commission who serve
16 after July one, one thousand nine hundred forty-three,
17 for less than a full term of eight years, shall be eligible
18 for reappointment for a full term.

Sec. 5. *Qualifications of Members; Political Activities*

2 to *Vacate Office*.—The members of the commission shall
3 be citizens and residents of this state selected with
4 special reference to their training and experience in re-
5 lation to the principal activities required of the com-
6 mission, and for their ability and fitness to perform their
7 duties within the purpose of this chapter. No member of
8 the commission shall be a candidate for, nor, hold any
9 elective or appointive public office other than that of a
10 member of the commission nor shall he be employed by
11 nor receive compensation in any department of the execu-
12 tive, administrative or judicial branches of the govern-
13 ment of this state, *Provided, however,* That employment
14 of an occupational nature, such as by way of illustration,
15 but not of limitations, a teacher or the like shall not
16 operate to disqualify such a member. In the event any
17 member of the commission becomes a candidate for or
18 is appointed to any public office, his office as a member
19 of the commission shall immediately be vacated.

Sec. 7. *Quorum*.—A majority of the commission mem-
2 bers shall constitute a quorum for the transaction of
3 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;

6 (2) Consider and study the entire field of legisla-
7 tion and administrative methods concerning the forests
8 and their maintenance and development, the protec-
9 tion of fish and game, the beautification of the state
10 and its highways, and the development of lands and
11 natural resources;

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

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

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

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

21 (7) Keep minutes of the transactions of each ses-
22 sion, regular or special, which shall be public records
23 and filed with the director;

24 (8) Sign and execute in the name of the state any
25 contract or agreement with the federal government or

26 its departments, sub-divisions of the state, corporations,
27 associations, co-partnerships or individuals;

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

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

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

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

44 (13) Designate such localities as the commission shall
45 determine to be necessary and desirable for the perpetua-
46 tion of any species of game bird or animal and for the
47 purpose of replenishing adjacent hunting grounds;

48 (14) Enter private lands to make surveys or investi-
49 gations for conservation purposes;

50 (15) Acquire by purchase, condemnation, lease or
51 agreement or receive by gifts or devise, lands or waters
52 suitable for the following purposes:

53 (a) For state forests for the purpose of growing
54 timber, demonstration forests, protecting water-sheds or
55 providing public recreation;

56 (b) For state parks for the purpose of preserving
57 scenic or historical or natural wonders or providing pub-
58 lic recreation;

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

62 (d) For fish hatcheries and game farms;

63 (e) For forest nurseries and experimental stations;

64 (f) To extend and consolidate lands or waters suitable
65 for the above purpose by exchange of other lands or
66 waters;

67 (g) To acquire by deed or in any other manner from

68 the Public Lands Corporation such lands that are suit-
69 able for forestry and other allied matters;

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

73 (17) Exercise the powers of this chapter for the pro-
74 tection of forests and to cooperate with other agencies
75 to this end;

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

79 (19) Cooperate with other state and federal agen-
80 cies to attain the objectives set forth in this chap-
81 ter;

82 (20) Keep a complete and accurate record of all pro-
83 ceedings, record and file all bonds and contracts taken
84 or entered into, and assume all responsibility of the
85 custody and preservation of all papers and documents
86 pertaining to the commission. Rules and regulations
87 shall be recorded in a book kept especially for this
88 purpose, and these rules and regulations may be pub-

89 lished for general circulation. All other records and
90 entries necessary to show the official conduct of the
91 department shall be preserved and shall be public
92 records and open for inspection during business
93 hours;

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

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

107 (23) Regulate fires in the woods or in their proximity
108 at such times and in such localities as is necessary to
109 reduce the danger of forest fires.

Sec. 12. *Director to Submit Matters for Advice.*—The
2 executive director shall submit to the commission or any
3 committee thereof at any regular or special meeting any
4 matter upon which he desires the advice or opinion of
5 the commission.

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

Sec. 16. *Powers and Duties Transferred to Commis-*
2 *sion.*—The powers and duties granted by chapter twenty
3 of the code of West Virginia, one thousand nine hun-
4 dred thirty-one, as amended, to the director of conserva-
5 tion, to any officer, board or commission, or elsewhere
6 vested in the game, fish and forestry commission or di-
7 rector, shall now be vested in the conservation commis-
8 sion. It shall have possession of all records, papers, equip-
9 ment and property of every nature now belonging to
10 the conservation commission. Wherever the word or
11 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

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H. B. No. 215
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15 or otherwise, the executive director shall be selected by
16 the commission as provided in this section.

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

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

Sec. 7. *Powers and Duties of the Director.*—The di-

2 rector shall have the power and authority, delegated to
3 him by the commission.

Sec. 8. *Powers and Duties Exercised by Appointees.*—

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

Sec. 9. *Legal Services by Attorney General and Prose-*

2 *cuting Attorneys.*—The attorney general and his assist-
3 ants and the prosecuting attorneys of the several coun-
4 ties shall render to the commission, without additional
5 compensation, such legal services as it shall require of
6 them in the discharge of its duties under the provisions
7 of this chapter. The commission may, in an emergency
8 and with prior approval of the attorney general, em-
9 ploy an attorney to act in proceedings wherein criminal
10 charges are brought against an employee or appointee
11 of the commission because of action taken in the line of
12 duty. An amount not to exceed three hundred dollars
13 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
2 State of West Virginia hereby assents to the provision of
3 the act of Congress entitled “An Act to provide that
4 the United States shall aid the states in wildlife restora-
5 tion projects and for other purposes,” approved Septem-
6 ber second, one thousand nine hundred thirty-seven,
7 (Public No. four hundred fifteen, seventy-fifth Congress)
8 and the commission through the executive director is
9 hereby authorized, empowered and directed to perform
10 such acts as may be necessary to the conduct and estab-
11 lishment of cooperative wildlife restoration projects, as
12 defined in said act of Congress, in compliance with said
13 act and with rules and regulations promulgated by the
14 Secretary of Interior thereunder. Funds accruing to the
15 state from license fees paid by hunters shall not be di-
16 verted for any purpose other than the activities of this
17 chapter.

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

Shooting Grounds.

Section 1-a. *Acquisition of Lands from the Public*
2 *Lands Corporation.*—In the event that the public land

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

24 of the commission on the land books of the county for
25 the proper district but no valuation shall be charged
26 against it. All such lands are hereby appropriated to
27 paramount public usage, from and after the time title
28 to or administration of same is transferred to the com-
29 mission.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray H. J. J. J.
Chairman Senate Committee

Fred I. Rotloff
Chairman House Committee

Originating Committee on James Fish
Originated in the House of Delegates

Takes effect thirty days from passage.

W. J. Watkins
Clerk of the Senate

J. R. Bliff
Clerk of the House of Delegates

James Paule
President of the Senate

John E. Unruh
Speaker House of Delegates

The within _____ this the _____

day of _____, 1943.

Governor.

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

Wm. S. O'Brien,
Secretary of State