

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945



ENROLLED

HOUSE BILL No. 282

(By Mr. Knight)



PASSED March 9 1945

In Effect July 1, 1945 Passage

282

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(By MR. KNIGHT)

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[Passed March 9, 1945; in effect July 1, 1945.]

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AN ACT to amend and reenact sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, and to repeal sections four-a and sixteen, article one; to amend and reenact sections one, three, five, six, seven, eight, nine and eleven, and to add section ten to article one-a, 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eleven, twelve and fourteen, article one, be amended and reenacted; that sections four-a and sixteen of article one, be repealed; that sections one, three, five, six, seven, eight, nine and eleven, article one-a, be amended and reenacted; and that article one-a be

amended by adding thereto a new section to be numbered ten, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

**Article 1. Conservation Commission.**

Section 3. *Members of the Commission.*—The commission shall consist of six members and a director of conservation. There shall be one member for each congressional district. The members shall be appointed by the governor, with the advice and consent of the senate.

Sec. 4. *Terms of Office.*—The term of office of members of the commission shall be six years. The governor, following the adoption of this act, shall appoint the members of the commission upon the following basis: In making initial appointments the governor shall designate their respective terms of office in such manner that thereafter the term of one member shall expire in each calendar year. As the initial appointments expire, all appointments shall be made for six-year terms, or for unexpired terms of members who for any reason have died, resigned or become disqualified.

Sec. 4-a. This section is hereby repealed.

Sec. 5. *Qualifications of Members; Political Activities to Vacate Office.*—The members of the commission shall be citizens and residents of the 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 purposes of this chapter.

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

Sec. 7. *Director; Quorum.*—The director shall be the presiding officer of the commission. A majority of the commission shall constitute a quorum for the conduct of official business.

Sec. 8. *Traveling Expenses.*—Each member of the commission shall receive his actual and necessary traveling

3 expenses incurred in the performance of his duties.

Sec. 10. *Regular and Special Meetings.*—The commis-  
2 sion shall hold four regular sessions each year, as fol-  
3 lows: On the first Monday in the months of July, October,  
4 January and April. Special meetings may be convened  
5 at any time on the call of the director of conservation, the  
6 governor or a majority of the commission.

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

5 (1) To consider and study the entire field of legisla-  
6 tion and administrative methods concerning the forests  
7 and their maintenance and development, the protection  
8 of fish and game, the beautification of the state and its  
9 highways, and the development of lands and natural re-  
10 sources;

11 (2) To advise with the director concerning the conser-  
12 vation problems of particular localities or districts of  
13 the state;

14 (3) To recommend policies and practices to the director

15 relative to any duties imposed upon him by law;

16 (4) To 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 (5) To advise or make recommendations to the gover-  
20 nor relative to the conservation policy of the state; and

21 (6) To keep minutes of the transactions of each session,  
22 regular or special, which shall be public records and filed  
23 with the director.

Sec. 12. *Director May Submit Matters for Advice.*---

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

Sec. 14. *Annual Report.*—Upon the request of the com-  
2 mission the director shall, and upon his own initiative he  
3 may, incorporate the proceedings of the commission in  
4 his report to the governor.

Sec. 16. This section is hereby repealed.

**Article 1-A. Executive Director.**

Section 1. *Appointment; Term of Office.*—The governor,

2 with the advice and consent of the senate, shall appoint  
3 a director of conservation to serve at the will and pleasure  
4 of the governor. The director shall devote his entire time  
5 to the duties of his office.

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 governor in the penalty of  
5 five thousand dollars for the faithful performance of his  
6 duties as director, and in case a surety company executes  
7 such bonds the premiums shall be paid out of the funds  
8 of the commission. The bond and the oath shall be filed  
9 with the secretary of state.

Sec. 5. *Salary and Traveling Expenses.*—The director  
2 shall receive a salary of six thousand dollars per annum  
3 and the necessary traveling expenses incident to the per-  
4 formance of his duties. Requisition for traveling expenses  
5 shall be accompanied by a sworn and itemized statement  
6 which shall be filed with the auditor and preserved as a  
7 public record.

Sec. 6. *Heads of Divisions; Necessary Assistants and*

2 *Employees.*—The director shall appoint the heads of the  
3 divisions of the department and shall employ such assist-  
4 ants and employees as may be necessary to the efficient  
5 operation of his department, and fix their salaries: *Pro-*  
6 *vided, however,* That in the employment of assistants  
7 and employees the director's actions shall be controlled at  
8 all times by the provisions of paragraph twenty-one, sec-  
9 tion seven of this article.

*Sec. 7. Powers and Duties of the Director.*—The direc-  
2 tor, in addition to the other powers granted by this chapter,  
3 shall have the sole authority to:

- 4 (1) Exercise general supervision of, and make rules and  
5 regulations for the government of his commission or de-  
6 partment;
- 7 (2) Sign and execute in the name of the state by "The  
8 Conservation Commission of West Virginia" any con-  
9 tract or agreement with the federal government or its  
10 departments or agencies, subdivisions of the state, corpo-  
11 rations, associations, copartnerships or individuals;
- 12 (3) Supervise the fiscal affairs and responsibilities of  
13 the department;

14 (4) Make a general conservation plan or program for  
15 the state; conduct research in improved conservation  
16 methods and disseminate information on conservation  
17 matters to the residents of the state;

18 (5) Organize his department to give adequate treat-  
19 ment to the problems of fish and game, forestry, parks  
20 and playgrounds, natural resources, education in prin-  
21 ciples of conservation, and publicity: *Provided, however,*  
22 That publicity work of an advertising nature shall be  
23 coordinated with that of the West Virginia industrial  
24 and publicity commission so far as possible;

25 (6) Set and alter the open seasons and bag limits as  
26 provided in this chapter;

27 (7) Designate such localities as he shall determine to  
28 be necessary and desirable for the perpetuation of any  
29 species of fish and for the purpose of replenishing adjacent  
30 fishing waters;

31 (8) Designate such localities as he shall determine to  
32 be necessary and desirable for the perpetuation of any  
33 species of game bird or animal and for the purpose of  
34 replenishing adjacent hunting grounds;

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

37 (10) Acquire by purchase, condemnation, lease, or  
38 agreement or receive by gifts or devise, lands or waters  
39 suitable for the following purposes:

40 (a) For state forests for the purpose of growing timber,  
41 demonstrating forestry, furnishing or protecting water-  
42 sheds or providing public recreation;

43 (b) For state parks for the purpose of preserving  
44 scenic or historical values or natural wonders, or pro-  
45 viding public recreation;

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

49 (d) For fish hatcheries and game farms;

50 (e) For forest nurseries and experimental stations;

51 (f) To extend and consolidate lands or waters suitable  
52 for the above purposes by exchange of other lands or  
53 waters under his supervision;

54 (11) Capture, propagate, transport, sell or exchange  
55 any species of game or fish needed for stocking any

56 lands or waters of this state;

57 (12) Exercise the powers granted by this chapter for  
58 the protection of forests;

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

62 (14) Cooperate with the state road commission in the  
63 beautification of state highways, and establishment and  
64 maintenance of roadside parks and planning of roadside  
65 slopes;

66 (15) Cooperate with other departments and agencies  
67 of the state and federal government;

68 (16) Keep a complete and accurate record of all pro-  
69 ceedings, record and file all bonds and contracts taken  
70 or entered into, and assume responsibility for the custody  
71 and preservation of all papers and documents pertaining  
72 to his office. Rules and regulations shall be recorded in  
73 a book especially kept for that purpose, and in his dis-  
74 cretion may be published for general circulation. All  
75 other records and entries necessary to show the official  
76 conduct of the department shall be preserved and shall

77 be public records and open for inspection during business  
78 hours;

79 (17) Purchase as provided by law all equipment neces-  
80 sary for the conduct of his department;

81 (18) Report to the governor each year all information  
82 relative to the operation and functions of his department.  
83 He shall make such other reports and recommendations  
84 as may be required by the governor.

85 (19) Exercise any other power that may be necessary  
86 or proper for the orderly conduct of his business and the  
87 effective discharge of his duties. Invoke any legal or  
88 equitable remedies, civil or criminal, for the enforcement  
89 of his orders of the provisions of this chapter;

90 (20) This section shall not be construed as authorizing  
91 the director to change any penalty for violating any game  
92 law or regulation, or change the amount of any license  
93 established by the Legislature, or to extend any open  
94 season or bag limit on migratory birds prescribed by fed-  
95 eral law or regulation.

96 (21) Establish a merit system of personnel manage-  
97 ment for any division in order to insure the impartial

98 selection of competent and qualified personnel and to  
99 accord to the employees of the commission, except the  
100 director, rights of tenure and advancement so long as  
101 they discharge their duties in a satisfactory manner. Such a  
102 merit system shall be established for the game protectors  
103 and for those employed in the division of forestry. In-  
104 stead of establishing its own merit system, however, the  
105 commission may avail itself of the services of the state  
106 merit system council and for this purpose may contribute  
107 its fair share of the expenses of such council.

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

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

2 All powers and duties vested in the director, except the  
3 power to sign contracts, may be exercised by the ap-  
4 pointees or employees of the director at his discretion and  
5 pursuant to his directions; but the director shall be re-  
6 sponsible for their acts.

*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 counties  
4 shall render to the director, without additional compen-  
5 sation, such legal services as he shall require of them in  
6 the discharge of his duties under the provisions of this  
7 chapter.

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

Sec. 11. *Cooperation with Federal Government in Wild-  
2 life Projects.*—The state of West Virginia hereby assents  
3 to the provision of the act of congress entitled, "An Act  
4 to provide that the United States shall aid the states in  
5 wildlife restoration projects and for other purposes,"  
6 approved September second, one thousand nine hundred  
7 thirty-seven (public law number four hundred fifteen,

8 seventy-fifth congress), and 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 other purpose than the activities of this  
17 chapter.

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

Charles C Morris  
Chairman Senate Committee

John DeGrutter Jr.  
Chairman House Committee

Originated in the House

Takes effect July 1, 1945 passage.

Horace Hager  
Clerk of the Senate

Phillip  
Clerk of the House of Delegates

Arnold W. Tickers  
President of the Senate

John E. Amos  
Speaker House of Delegates

The within Approved this the 16<sup>th</sup>

day of March, 1945.

Oliver Medsker  
Governor.



Filed in the office of the Secretary of State  
of West Virginia MAR 16 1945

Wm. S. O'BRIEN,  
Secretary of State