

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955



ENROLLED

HOUSE BILL No. 499

(By Mr. Fumich)



PASSED Mar 12 1955

In Effect 90 Days from Passage



Filed In the Office of the Secretary of State
of West Virginia

MAR 17 1955

D. PITT O'BRIEN
SECRETARY OF STATE

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House Bill No. 499

(BY MR. FUMICH)

[Passed March 12, 1955; in effect ninety days from passage.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article eleven, relating to the southeastern interstate forest fire protection compact and providing that the state of West Virginia enter into such compact.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article eleven, to read as follows:

Article 11. Southeastern Interstate Forest Fire Protection Compact.

Section 1. *Governor Authorized to Execute Compact.*—

2 The governor on behalf of this state is hereby authorized

3 to execute a compact in substantially the following form,
4 with any one or more of the states of Alabama, Florida,
5 Georgia, Kentucky, Mississippi, North Carolina, South
6 Carolina, Tennessee, and Virginia, and the Legislature
7 hereby signifies in advance its approval and ratification
8 of such compact:

9 SOUTHEASTERN INTERSTATE FOREST
10 FIRE PROTECTION COMPACT

11 Article I.

12 The purpose of this compact is to promote effective
13 prevention and control of forest fires in the southeastern
14 region of the United States by the development of in-
15 tegrated forest fire plans, by the maintenance of adequate
16 forest fire fighting services by the member states, by pro-
17 viding for mutual aid in fighting forest fires among the
18 compacting states of the region and with states which
19 are party to other regional forest fire protection com-
20 pacts or agreements, and for more adequate forest pro-
21 tection.

22 Article II.

23 This compact shall become operative immediately as

24 to those states ratifying it whenever any two or more of
25 the states of Alabama, Florida, Georgia, Kentucky, Mis-
26 sissippi, North Carolina, South Carolina, Tennessee, Vir-
27 ginia, and West Virginia, which are contiguous have
28 ratified it and congress has given consent thereto. Any
29 state not mentioned in this article which is contiguous
30 with any member state may become a party to this com-
31 pact subject to approval by the legislature of each of the
32 member states.

33 **Article III.**

34 In each state, the state forester or officer holding the
35 equivalent position who is responsible for forest fire
36 control shall act as compact administrator for that state
37 and shall consult with like officials of the other member
38 states and shall implement cooperation between such
39 states in forest fire prevention and control.

40 The compact administrators of the member states shall
41 coordinate the services of the member states and provide
42 administrative integration in carrying out the purposes
43 of this compact.

44 There shall be established an advisory committee of

45 legislators, forestry commission representatives, and for-
46 estry or forest products industries representative which
47 shall meet from time to time with the compact adminis-
48 trators. Each member state shall name one member of
49 the senate and one member of the house of delegates who
50 shall be designated by that state's commission on in-
51 terstate cooperation, or if said commission cannot con-
52 stitutionally designate the said members, they shall be
53 designated in accordance with laws of that state; and
54 the governor of each member state shall appoint two
55 representatives, one of whom shall be associated with
56 forestry or forest products industries to comprise the
57 membership of the advisory committee. Action shall be
58 taken by a majority of the compacting states, and each
59 state shall be entitled to one vote.

60 The compact administrators shall formulate and, in
61 accordance with need, from time to time, revise a regional
62 forest fire plan for the member states.

63 It shall be the duty of each member state to formulate
64 and put in effect a forest fire plan for that state and take
65 such measures as may be necessary to integrate such forest

66 fire plan with the regional forest fire plan formulated
67 by the compact administrators.

68 Article IV.

69 Whenever the state forest fire control agency of a mem-
70 ber state requests aid from the state forest fire control
71 agency of any other member state in combating, control-
72 ing or preventing forest fires, it shall be the duty of the
73 state forest fire control agency of that state to render
74 all possible aid to the requesting agency which is con-
75 sonant with the maintenance of protection at home.

76 Article V.

77 Whenever the forces of any member state are render-
78 ing outside aid pursuant to the request of another mem-
79 ber state under this compact, the employees of such
80 state shall, under the direction of the officers of the state
81 to which they are rendering aid, have the same powers
82 (except the power of arrest), duties, rights, privileges
83 and immunities as comparable employees of the state
84 to which they are rendering aid.

85 No member state or its officers or employees rendering
86 outside aid pursuant to this compact shall be liable on

87 account of any act or omission on the part of such forces
88 while so engaged, or on account of the maintenance, or
89 use of any equipment or supplies in connection therewith:
90 *Provided*, That nothing herein shall be construed as
91 relieving any person from liability for his own negligent
92 act or omission, or as imposing liability for such negli-
93 gent act or omission upon any state.

94 All liability, except as otherwise provided hereinafter,
95 that may arise either under the laws of the requesting
96 state or under the laws of the aiding state or under the
97 laws of a third state on account of or in connection with
98 a request for aid, shall be assumed and borne by the
99 requesting state.

100 Any member state rendering outside aid pursuant to
101 this compact shall be reimbursed by the member state
102 receiving such aid for any loss or damage to, or expense
103 incurred in the operation of any equipment answering
104 a request for aid, and for the cost of all materials, trans-
105 portation, wages, salaries, and subsistence of employees
106 and maintenance of equipment incurred in connection
107 with such request: *Provided*, That nothing herein con-

108 tained shall prevent any assisting member state from
109 assuming such loss, damage, expense or other cost or
110 from loaning such equipment or from donating such
111 service to the receiving member state without charge or
112 cost.

113 Each member state shall provide for the payment of
114 compensation and death benefits to injured employees
115 and the representatives of deceased employees in case
116 employees sustain injuries or are killed while rendering
117 outside aid pursuant to this compact, in the same manner
118 and on the same terms as if the injury or death were
119 sustained within such state.

120 For the purposes of this compact the term employee
121 shall include any volunteer or auxiliary legally included
122 within the forest fire fighting forces of the aiding state
123 under the laws thereof.

124 The compact administrators shall formulate procedures
125 for claims and reimbursement under the provisions of
126 this article, in accordance with the laws of the member
127 states.

128

Article VI.

129 Ratification of this compact shall not be construed to
130 affect any existing statute so as to authorize or permit
131 curtailment or diminution of the forest fire fighting forces,
132 equipment, services or facilities of any member state.

133 Nothing in this compact shall be construed to limit
134 or restrict the powers of any state ratifying the same to
135 provide for the prevention, control and extinguishment
136 of forest fires, or to prohibit the enactment or enforce-
137 ment of state laws, rules or regulations intended to aid
138 in such prevention, control and extinguishment in such
139 state.

140 Nothing in this compact shall be construed to affect
141 any existing or future cooperative relationship or ar-
142 rangement between any federal agency and a member
143 state or states.

144

Article VII.

145 The compact administrators may request the United
146 States forest service to act as a research and coordinating
147 agency of the southeastern interstate forest fire protec-
148 tion compact in cooperation with the appropriate agencies

149 in each state, and the United States forest service may
150 accept responsibility for preparing and presenting to
151 the compact administrators its recommendations with
152 respect to the regional fire plan. Representatives of any
153 federal agency engaged in forest fire prevention and con-
154 trol may attend meetings of the compact administrators.

155 **Article VIII.**

156 The provisions of articles four and five of this com-
157 pact which relate to mutual aid in combating, controlling
158 or preventing forest fires shall be operative as between
159 any state party to this compact and any other state which
160 is party to a regional forest fire protection compact in
161 another region: *Provided*, That the legislature of such
162 other state shall have given its assent to such mutual aid
163 provisions of this compact.

164 **Article IX.**

165 This compact shall continue in force and remain bind-
166 ing on each state ratifying it until the legislature or the
167 governor of such state, as the laws of such state shall
168 provide, takes action to withdraw therefrom. Such action
169 shall not be effective until six months after notice

170 thereof has been sent by the chief executive of the state
171 desiring to withdraw to the chief executives of all states
172 then parties to the compact.

Sec. 2. *When and How Compact Becomes Operative.*—

2 When the governor shall have executed said compact on
3 behalf of this state and shall have caused a verified copy
4 thereof to be filed with the state secretary, and when said
5 compact shall have been ratified by one or more of the
6 states named in section one of this act, then said compact
7 shall become operative and effective as between this
8 state and such other state or states. The governor is
9 hereby authorized and directed to take such action as
10 may be necessary to complete the exchange of official
11 documents as between this state and any other state
12 ratifying said compact.

Sec. 3. *Members of Compact Committee; How Ap-*

2 *pointed; Term of Office; Filling of Vacancies.*—In pursu-
3 ance of article three of said compact, the director of con-
4 servation of the state of West Virginia or his designated
5 representative shall act as compact administrator for the
6 state of West Virginia of the southeastern interstate

7 forest fire protection compact during his term of office as
8 conservation director, and his successor as compact ad-
9 ministrator shall be his successor as director of conser-
10 vation. As compact administrator he shall be an ex
11 officio member of the advisory committee of the south-
12 eastern interstate forest fire protection compact, and
13 chairman ex officio of the West Virginia members of said
14 advisory committee. There shall be four members of the
15 southeastern interstate forest fire protection compact
16 advisory committee from the state of West Virginia. Two
17 of the members from the state of West Virginia shall be
18 members of the Legislature of West Virginia, one from
19 the senate and one from the house of delegates, designated
20 by the state's commission on interstate cooperation and
21 the terms of any such members shall terminate at the
22 time they cease to hold legislative office, and their suc-
23 cessors as members shall be named in like manner. The
24 governor shall appoint the other two members from the
25 state of West Virginia, one of whom shall be associated
26 with forestry or forest products industries. The terms of
27 such members shall be two years and such members shall

28 hold office until their respective successors shall be ap-
29 pointed and qualified. Vacancies occurring in the office
30 of such members from any reason or cause shall be filled
31 by appointment by the governor for the unexpired term.
32 The director of conservation as compact administrator
33 may delegate, from time to time, to any deputy or other
34 subordinate in his department or office, the power to be
35 present and participate, including voting as his repre-
36 sentative or substitute at any meeting of or hearing by or
37 other proceeding of the compact administrators or of the
38 advisory committee. The terms of each of the initial four
39 memberships of the advisory committee, whether appoint-
40 ed at said time or not, shall begin upon the date upon
41 which said compact shall become effective in accordance
42 with article two of said compact. Any member of said
43 advisory committee may be removed from office by the
44 governor upon charges and after a hearing.

Sec. 4. *Powers of Committee.*—There is hereby granted
2 to the director of conservation, as compact administrator
3 and chairman ex officio of the West Virginia members of
4 said advisory committee, and to the members from West

5 Virginia of said advisory committee all the powers pro-
6 vided for in the said compact and all the powers necessary
7 or incidental to the carrying out of said compact in every
8 particular. All officers of the state of West Virginia are
9 hereby authorized and directed to do all things falling
10 within their respective provinces and jurisdiction neces-
11 sary or incidental to the carrying out of said compact in
12 every particular; it being hereby declared to be the policy
13 of the state of West Virginia to perform and carry out
14 the said compact and to accomplish the purposes thereof.
15 All officers, bureaus, departments and persons of and in
16 the state government or administration of the state of
17 West Virginia are hereby authorized and directed at
18 convenient times and upon request of said compact ad-
19 ministrator, or of said advisory committee, to furnish
20 information and data relating to the purposes of said
21 compact possessed by them or any of them to said compact
22 administrator or said advisory committee. They are fur-
23 ther authorized to aid said compact administrator or said
24 advisory committee by loan of personnel, equipment, or
25 other means in carrying out the purposes of said compact.

Sec. 5. *Powers Granted by Other Laws to Supplement
2 the Powers Vested Herein.*—Any powers herein granted
3 to the state forester shall be regarded as in aid of and
4 supplemental to, and in no case a limitation upon, any
5 of the powers vested in said director by other laws of
6 the state of West Virginia or by the laws of the states of
7 Alabama, Florida, Georgia, Kentucky, Mississippi, North
8 Carolina, South Carolina, Tennessee, and Virginia or by
9 the congress or the terms of said compact.

Sec. 6. *Saving Clause.*—If any provision of this article
2 or the application thereof to any person or circumstances
3 is held invalid, such invalidity shall not affect other pro-
4 visions or applications of the article which can be given
5 effect without the invalid provision or application, and
6 to this end the provisions of this article are declared to be
7 severable.

Sec. 7. *Articles Inconsistent Herewith.*—All articles or
2 parts of articles inconsistent herewith are hereby repealed.

Sec. 8. *When Article Shall Take Effect.*—This article
2 shall take effect upon its approval by the governor.

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

[Handwritten Signature]

Chairman Senate Committee

[Handwritten Signature]

Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

[Handwritten Signature]
Clerk of the Senate

[Handwritten Signature]
Clerk of the House of Delegates

[Handwritten Signature]
President of the Senate

[Handwritten Signature]
Speaker House of Delegates

The within approved this the 16
day of March, 1955.

[Handwritten Signature]
Governor



Filed in the Office of the Secretary of State
of West Virginia

MAR 17 1955

D. PITT O'BRIEN
SECRETARY OF STATE