ENROLLED

Senate Bill No. 18
(By Mr. Stemple and Mr. Taylor)

[Passed March 1, 1957; in effect ninety days from passage.]

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections two, three, and eight, article twenty-one-a thereof, by adding two new sections, designated sections thirteen-a and thirteen-b, to said article, and by adding to said chapter a new article, designated article twenty-one-b, all relating to the conservation of natural resources by providing for the conservation of soil and soil resources, the control and prevention of soil erosion, the prevention of floodwater and sediment damage, and the conservation, development, utilization, and disposal of water.
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Be it enacted by the Legislature of West Virginia:

That chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections two, three, and eight, article twenty-one-a thereof, by adding two new sections, designated sections thirteen-a and thirteen-b, to said article, and by adding to said chapter a new article, designated article twenty-one-b, all to read as follows:

Section 2. Legislative Determinations and Declaration of Policy.—It is hereby declared, as a matter of legislative determination:

(a) That the farm and grazing lands of the State of West Virginia are among the basic assets of the State and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this State by water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization,
causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any landowner to conserve the soil and control erosion upon his lands causes a washing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion of such other lands difficult or impossible.

(b) That the consequences of such soil erosion in the form of soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of
scientific processes for increasing such yields; loss of soil
and water which causes destruction of food and cover for
wildlife; the washing of soil into streams which silts over
spawning beds and destroys water plants, diminishing the
food supply of fish; a diminishing of the underground wa-
ter reserve, which causes water shortages, intensifies peri-
ods of drought, and causes crop failures; an increase in
speed and volume of rainfall run-off, causing severe and
increasing floods, which bring suffering, disease, and
death; impoverishment of families attempting to farm
eroding and eroded lands; damage to roads, highways,
railways, farm buildings, and other property from floods;
and losses in navigation, hydro-electric power, municipal
water supply, irrigation developments, farming and graz-
ing.

(c) That to conserve soil resources and control and
prevent soil erosion and prevent floodwater and sediment
damage, and further the conservation, development, util-
ization, and disposal of water, it is necessary that land-use
practices contributing to soil wastage and soil erosion be
discouraged and discontinued, and appropriate soil-con-
serving land-use practices and works of improvement for flood prevention or the conservation, development, utilization, and disposal of water be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly guillied or otherwise eroded.

(d) It is hereby declared to be the policy of the Legislature to provide for the conservation of the soil and
soil resources of this state, for the control and prevention of soil erosion, for the prevention of floodwater and sediment damage, and for furthering the conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and protect and promote the health, safety, and general welfare of the people of this state.

(e) This article contemplates that the incidental cost of organizing soil conservation districts will be borne by the state, while the expense of operating the districts so organized, will be provided by donations, gifts, contributions, grants and appropriations, in money, services, materials or otherwise, from the United States or any of its agencies, from the State of West Virginia, or from other sources, with the understanding that the owners or occupiers will contribute funds, labor, materials and equipment to aid the carrying out of erosion control measures on their lands.
Sec. 3. Definitions.—Wherever used or referred to in this article, unless a different meaning clearly appears from the context:

(1) "District" or "soil conservation district" means a subdivision of this State, organized in accordance with the provisions of this article, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this article.

(3) "Committee" or "state soil conservation committee" means the agency created in section four of this article.

(4) "Petition" means a petition filed under the provisions of subsection-a of section five of this article for the creation of a district.

(5) "State" means the State of West Virginia.

(6) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumental-
ity, corporate or otherwise, of the government of this State.

(7) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(8) "Land owners" or "owners of land" includes any person or persons, firm, or corporation who shall hold title to three or more acres of any lands lying within a district organized under the provisions of this article.

(9) "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this article, whether as owner, lessee, renter, or tenant.

(10) "Due notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in two newspapers of opposite politics and of general circulation published in the county in which is located the appropriate area, or if no such
publication of general circulation be available, by posting
at a reasonable number of conspicuous places within the
appropriate area, such posting to include, where possible,
posting at public places where it may be customary to
post notices concerning county or municipal affairs gen-
erally. At any hearing held pursuant to such notice at
the time and place designated in such notice, adjourn-
ment may be made from time to time without the neces-
sity of renewing such notice for such adjournment dates.

(11) The terms "soil conservation," "erosion control,"
or "erosion prevention projects," when used throughout
the article, shall denote those projects that have been
established by federal agencies in cooperation with state
agencies for the purpose of demonstrating soil erosion
control and water conservation practices.

(12) The term "governing body" means the supervis-
ors of any soil conservation district, town or city council,
city commission, county court, or body acting in lieu of a
county court, in this state, and the term "governmental
division" means any soil conservation district, town, city,
or county in this state.
"Works of improvement" means such structures as may be necessary or convenient for flood prevention or the conservation, development, utilization or disposal of water.

Sec. 8. *Powers of Districts and Supervisors.*—A soil conservation district organized under the provisions of this article shall have the following powers, and the supervisor thereof shall have the following powers, in addition to others granted in other sections of this article:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and floodwater and sediment damage, and to the conservation, development, utilization, and disposal of water, and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement: *Provided, however,* That in order to avoid duplication of research activities, no district shall initiate any research program or publish the results except with the approval of the state committee and in cooperation with the government.
of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil washing may be prevented and controlled, and works of improvement may be carried out;

(3) To carry out preventive and control measures and works of improvement within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection c of section two of this article, on lands owned or controlled by this state or any of its agencies, with the consent and co-operation of the agency administering and having jurisdiction thereof, and
on any other lands within the district upon obtaining the
consent of the owner and occupier of such lands or the
necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and
within the limits of appropriations duly made available
to it by law, to furnish financial or other aid to, any
agency, governmental or otherwise, or any occupier of
lands within the district, in the carrying on of erosion-
control and prevention operations and works of improve-
ment within the district, subject to such conditions as
the supervisors may deem necessary to advance the pur-
poses of this article;

(5) To obtain options upon and to acquire, by purchase,
exchange, lease, gift, grant, bequest, devise, or otherwise,
any property, real or personal, or rights or interests there-
in; to institute condemnation proceedings to acquire any
property, real or personal, or rights or interests therein,
whether or not located in the district, required for works
of improvement; to maintain, administer, and improve
any properties acquired, to receive income from such
properties and to expend such income in carrying out the
purposes and provisions of this article; and to sell, lease,
or otherwise dispose of any of its property or interests
therein in furtherance of the purposes and the provisions
of this article;

(6) To make available, on such terms as it shall pre-
scribe, to land occupiers within the district, agricultural
and engineering machinery and equipment, fertilizer,
seeds and seedlings, and such other material or equipment,
as will assist such land occupiers to carry on operations
upon their lands for the conservation of soil resources and
for the prevention and control of soil erosion and for flood
prevention or the conservation, development, utilization,
and disposal of water;

(7) To construct, improve, operate and maintain such
structures as may be necessary or convenient for the per-
formance of any of the operations authorized in this
article;

(8) To develop with the approval of the state com-
mittee comprehensive plans for the conservation of soil
resources and for the control and prevention of soil ero-
sion and for flood prevention or the conservation, develop-
ment, utilization, and disposal of water within the district,
which plans shall specify, in such detail as may be pos-
sible, the acts, procedures, performances, and avoidances
which are necessary or desirable for the effectuation of
such plans, including the specification of engineering
operations, methods of cultivation, the growing of vegeta-
tion, cropping programs, tillage practices, and changes in
use of land; and to publish such plans and information and
bring them to the attention of occupiers of lands within
the district;
(9) To take over, by purchase, lease, or otherwise, and
to administer any soil-conservation, flood-prevention,
drainage, irrigation, water-management, erosion-control,
or erosion-prevention project, or combinations thereof,
located within its boundaries, undertaken by the United
States or any of its agencies, or by this state or any of
its agencies; to manage, as agent of the United States or
any of its agencies, or of this state or any of its agencies,
any soil conservation, flood-prevention, drainage, irriga-
tion, water-management, erosion-control, or erosion-pre-
vention project, or combinations thereof, within its boun-
(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as herein provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this article, to carry into effect its purposes and powers;

(11) As a condition to this extending of any benefits
123 under this article to, or the performance of work upon, any
124 lands, the supervisors may require contributions in money,
125 services, materials, or otherwise, to any operations con-
126 ferring such benefits, and may require land occupiers to
127 enter into and perform such agreements or covenants as
128 to the permanent use of such lands as will tend to prevent
129 or control erosion and prevent floodwater and sediment
130 damage thereon;
131 (12) No provisions with respect to the acquisition,
132 operation, or disposition of property by other public bodies
133 shall be applicable to a district organized hereunder in its
134 acquisition, operation and disposition of property unless
135 the legislature shall specifically so state;
136 (13) To enter into contracts and other arrangements
137 with agencies of the United States, with persons, firms or
138 corporations, including public corporations, with the state
139 government of this state or other states, or any depart-
140 ment or agency thereof, with governmental divisions, with
141 soil conservation, drainage, flood control, soil erosion or
142 other improvement districts in this state or other states,
143 for cooperation or assistance in constructing, improving,
operating or maintaining works of improvement within
the district, or in preventing floods, or in conserving, de-
veloping, utilizing and disposing of water in the district,
or for making surveys, investigations or reports thereof;
and to obtain options upon and acquire property, real or
personal, or rights or interests therein, in other districts or
states required for flood prevention or the conservation,
development, utilization and disposal of water within the
district and to construct, improve, operate or maintain
thereon or therewith works of improvement.

Sec. 13a. Authority of Governmental Divisions to Ex-
pend Money; Levy.—The governing body of any govern-
mental division which may reasonably be expected to
receive a benefit from the construction, improvement,
operation or maintenance of any works of improvement
may expend money for such construction, improvement,
operation or maintenance if this expectation exists as to
any part of the governmental division and even though
such works of improvement are not located within the
corporate limits of the governmental division or are not
within this state: Provided, however, That if the expendi-
ture is not made directly by the governmental division for such purpose, it shall be made only through a soil conservation district or watershed improvement district organized under the laws of this state, but it shall not be necessary that any part of the governmental division be within the limits of the district through which the expenditure is made. Such governing bodies or governmental divisions may set up in their respective budgets funds to be spent for such purposes, and municipalities and counties may levy and collect taxes for such purposes, in the manner provided by law: Provided, however, That in case sufficient funds cannot be raised by ordinary levies, additional funds may be raised by municipalities and counties as provided by section sixteen, article eight, chapter eleven of the code.

Sec. 13b. Assurance of Cooperation by Governmental Division.—By vote of the governing body, any governmental division authorized to expend money on works of improvement by section thirteen-a of this article may alone, or in combination with any other governmental division or divisions, so authorized to expend money on
works of improvement, give assurances, by contract or otherwise, satisfactory to agencies of the United States, congressional committees, or other proper federal authority, and to soil conservation districts or watershed improvement districts organized under the laws of this state, that the governmental division or divisions will construct, improve, operate or maintain works of improvement or will appropriate a sum or sums of money and expend it for such purposes as provided in section thirteen-a of this article.

The assurances, whether by contract or otherwise, shall be reduced to writing and before final approval of the governing bodies involved shall be submitted to the attorney general for approval. After approval by the attorney general and by the governing body or bodies concerned, certified copies of the assurances shall be filed in the office of the county clerk of the county or counties in which the governmental division is located and in the office of the state tax commissioner.

Any assurance hereunder may be valid and binding for a period of time not to exceed fifty years.
Article 21b. Watershed Improvement Districts.

Section 1. Definitions.—The term “landowners” or “owners of land” as used in this article includes any person, firm or corporation, other than a public body corporate, who shall hold title to any lot or tract of land lying within a district organized or to be organized under the provisions of this article, whether or not such land lies within the corporate limits of any town or city.

Sec. 2. Establishment of Watershed Improvement Districts Authorized.—Whenever within a soil conservation district or districts, soil conservation or the conservation, development, utilization, or disposal of water will be promoted by the construction of improvements for such purpose or purposes, a watershed improvement district may be established within such soil conservation district or districts in accordance with the provisions of this article.

Sec. 3. Petition for Establishment.—Any twenty-five owners of land lying within the limits of a proposed watershed improvement district, or a majority of such owners if their number be less than fifty, or any municipality or county any part of which lies within the proposed water-
shed improvement district, may file a petition with the supervisors of the soil conservation district or districts in which the proposed watershed improvement district will be situated asking that a watershed improvement district be organized for the territory described in the petition. The petition shall set forth:

(1) The proposed name of the watershed improvement district;

(2) That there is need, in the interest of the public health, safety, or welfare, for a watershed improvement district for the territory described in the petition;

(3) A description of the territory proposed to be organized as a watershed improvement district, which description shall be deemed sufficient if generally accurate;

(4) That the territory described in the petition is contiguous and is in the same watershed;

(5) A request that the territory described in the petition be organized as a watershed improvement district.

Land lying within the limits of one watershed improvement district shall not be included in another watershed improvement district.
Sec. 4. Public Hearing on Petition; Determination of Need for District; Defining Boundaries.—Within thirty days after such petition has been filed with the supervisors of the soil conservation district or districts, they shall hold a public hearing or hearings upon the practicability and feasibility of creating the proposed watershed improvement district. All owners of land within the proposed watershed improvement district and all other interested parties shall have the right to attend such a hearing and be heard. The supervisors may prescribe such rules and regulations governing the conduct of such hearings as they deem to be necessary.

The supervisors shall thereafter determine whether there is need, in the interest of the public health, safety, or welfare, for the organization of the proposed watershed improvement district. They shall record such determination and shall define the boundaries of such watershed improvement district.

Sec. 5. Determination of Whether Operation of Proposed District is Feasible.—If the supervisors determine that need for the proposed watershed improvement dis-
strict exists and after they define the boundaries of the
proposed district, they shall consider the question of
whether the operation of the proposed watershed im-
provement district is administratively practicable and
feasible.

Sec. 6. Declaration of Organization of District; Certifica-
tion.—If the supervisors shall determine that operation of
the proposed watershed improvement district is adminis-
tratively practicable and feasible, they shall so notify the
state soil conservation committee which may declare the
watershed improvement district to be duly organized
and shall record such fact in its official minutes. Following
such entry in its official minutes, the committee shall
certify the fact of the organization of the watershed im-
provement district to the secretary of state, and shall
furnish a copy of such certification for recordation to the
clerk of the county court in each county in which any por-
tion of the watershed improvement district is situated;
and the watershed improvement district shall thereupon
constitute a governmental division of this state and a pub-
lic body corporate.
Sec. 7. Establishment of Watershed Improvement District Situated in More Than One Soil Conservation District.—If a proposed watershed improvement district will be situated in more than one soil conservation district, copies of the petition shall be presented to the supervisors of all the soil conservation districts in which any part of such proposed watershed improvement district will be situated, and the supervisors of all such soil conservation districts affected shall act jointly as a board of supervisors with respect to all matters concerning such watershed improvement district, including its organization. Such watershed improvement district shall be organized in like manner and shall have the same powers and duties as a watershed improvement district situated entirely in one soil conservation district.

Sec. 8. Inclusion of Additional Territory.—Petitions for including additional territory within an existing watershed improvement district may be filed with supervisors of the soil conservation district or districts in which the watershed improvement district is situated, and in such cases the provisions hereof with respect to petitions to
organize a watershed improvement district shall be ob-
erved to the extent deemed practicable by such super-
visors. No additional territory shall be included in an 
existing watershed improvement district without the ap-
proval of the state committee and certification of its in-
clusion to the officers indicated in section six of this article.

Sec. 9. **Governing Body of District; Trustees.**—The 
supervisors of the soil conservation district or districts in 
which the watershed improvement district is situated 
shall be the governing body of the watershed improvement 
district. They may appoint three trustees, who shall be 
owners of land within the watershed improvement dis-
trict, to carry on the business of the watershed improve-
ment district. The trustees so appointed shall exercise 
such administrative duties and powers as may be dele-
gated to them by the governing body of the district, and 
they shall hold office at the will of that body. A trustee 
shall receive no compensation for his services but may 
be reimbursed from funds of the district for actual and 
necessary expenses incurred by him in the performance 
of his duties. The trustees shall designate a chairman and
may, from time to time, change such designation. One of
the trustees may be selected as treasurer and shall then
be responsible for the safekeeping of all the funds of the
watershed improvement district.

When a watershed improvement district lies in more
than one soil conservation district, the supervisors of all
such districts shall act jointly as the governing body of the
watershed improvement district.

Sec. 10. Officers, Agents and Employees; Surety Bonds;
Annual Audit.—The trustees may, with the approval of the
governing body of the district, employ such officers, agents,
and other employees as they may require and shall de-
termine their qualifications, duties and compensation.
The compensation of such persons shall be paid out of
funds of said district. The governing body shall provide
for the execution of surety bonds for the treasurer and
such other trustees, officers, agents, and employees as
shall be entrusted with funds or property of the water-
shed improvement district and shall provide for the mak-
ing and publication of an annual audit of the accounts of
receipts and disbursements of the watershed improvement district.

Sec. 11. Status and General Powers of District; Approval of Governing Body Required.—A watershed improvement district organized under the provisions of this article shall constitute a governmental division of this state and a public body corporate, and such watershed improvement district shall have all of the powers of the soil conservation district or districts in which the watershed improvement district is situated. These powers are set forth in article twenty-one-a, chapter nineteen of the code, and any reference therein to a “soil conservation district” shall be deemed for the purposes of this article to include a “watershed improvement district”. The trustees shall exercise only such of the powers of the watershed improvement district as the governing body of the district may designate from time to time.

Sec. 12. Powers Granted Additional to Powers of Soil Conservation District; Soil Conservation District to Continue to Exercise its Powers.—The powers herein granted to watershed improvement districts shall be additional to
the powers of the soil conservation district or districts in
which the watershed improvement district is situated;
and the soil conservation district or districts, and the
supervisors thereof, are authorized, notwithstanding the
creation of the watershed improvement district, to con-
tinue to exercise all of its powers within the watershed
improvement district.

Sec. 13. Discontinuance of Watershed Improvement
Districts.—At any time after five years from the organiza-
tion of a watershed improvement district, any twenty-five
owners of land lying within the limits of the district, or a
majority of such owners if their number be less than fifty,
or any municipality or county any part of which lies with-
in the district, may file a petition with the governing
body of the district, praying that the existence of the dis-
trict be discontinued. The petition shall state the reasons
for discontinuance, and that all obligations of the district
have been met.

The governing body of the district may conduct public
hearings on the petition to assist it in making a determina-
tion.
If it is found that all the obligations of the district have been met, the governing body shall consider the question of whether soil conservation or the conservation development, utilization, or disposal of water will be promoted by the continuance of the district. If the governing body shall determine that none of these objectives will be promoted, it shall so notify the state soil conservation committee which may declare the district to be discontinued and shall record such fact in its official minutes. Following such entry in its official minutes, the committee shall certify the fact of the discontinuance to the secretary of state and shall furnish a copy of such certification for recordation to the clerk of the county court in each county in which any portion of the district is situated; and the district shall thereupon cease to exist.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Edward Faust
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

Sidney J. Trayn
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 11th day of March, 1957.

[Signature]
Governor

Filed in the Office of the Secretary of State of West Virginia, MAR 12 1957.

D. Pitt O'Brien
Secretary of State