WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

SENATE BILL NO. 37

(By Mr. [Signature] of Logan and [Signature] of Moats)

PASSED March 11, 1959

In Effect Upon [Signature] of Passage

Filed in Office of the Secretary of State of West Virginia MAR 20, 1959
JOE F. BURDETT
SECRETARY OF STATE
ENROLLED

Senate Bill No. 37
(By Mr. Jackson of Logan and Mr. Moats)

[Passed March 11, 1959; in effect ninety days from passage.]

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one and two, article eleven, chapter sixteen thereof, and by adding thereto a new chapter designated chapter twenty-a, all relating to the water resources of the state.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections one and two, article eleven, chapter sixteen thereof, and by adding thereto a new chapter designated chapter twenty-a, all to read as follows:

Section 1. Definitions.—Terms used in this article are defined as follows:

(a) "Commission", which heretofore meant the state water commission, on and after the effective date of this section shall mean the State Water Resources Commission, a corporation created under the provisions of section two of this article.

(b) "Commissioner" shall mean a member of the commission.

(c) "Water" or "waters" shall mean all waters of any river, stream, watercourse, pond or lake.

(d) "Pollution" shall mean the discharge or deposit, directly or indirectly, of sewage, industrial wastes or other substances, in such condition, manner or quantity as may contaminate or alter the physical, chemical or biological properties of any of the waters of the state to such extent as to render such waters directly or indirectly detrimental to the public health or unreasonably and adversely affect such waters for present or future domestic, commercial,
industrial, agricultural, recreational or other legitimate
uses.

(e) "Person" shall mean any and all persons natural or
artificial, including any municipal or private corporation
organized or existing under the laws of this or any other
state or country, any county court, government institu-
tion, agency or political subdivision as well as any firm or
association.

Sec. 2. State Water Resources Commission, a Body
Corporate; Members of Commission; Aid by Division of
Sanitary Engineering and College of Engineering; Ex-
penses; Reimbursement for Expenditures.—The State
Water Resources Commission shall be a corporation, and,
as such may sue and be sued, contract and be contracted
with, and it shall have a common seal.
The commission shall consist of the director of health,
the director of conservation, the superintendent of the
state geological and economic survey, and their successors
in office, and four other members to be appointed by the
governor with the advice and consent of the Senate. Comm-
missioners in office at the effective date of this section
shall continue in office until the new appointees have been appointed and qualified. The terms of office of the members of the commission to be appointed by the governor shall be for six years. The first appointments made under the provisions of this section shall be as follows: Two members for three years and two members for six years; as these terms expire the offices shall be filled for six-year terms. The members of the commission shall receive no salary or remuneration for their services as such commissioners but they shall be reimbursed, out of moneys appropriated for such purposes, all sums which they necessarily shall expend in the discharge of their duties as members of such commission. The director of the division of sanitary engineering in the state health department shall perform such services as said commission may request of him in connection with its duties hereunder; he shall be reimbursed, out of moneys appropriated for such purposes, all sums which he necessarily shall expend in the performance of such services. Nothing contained in this article, however, shall be construed to limit or interfere with the power of the state health department to
select, employ and direct the director of the division of
sanitary engineering of said department, or any employee
thereof who in any way may perform any services for
the commission. The college of engineering at West Vir-
ginia University, under the direction of the dean thereof,
shall, in so far as it can, without interference with its usual
and regular activities, aid and assist the commission in
the study and research of questions connected with pollu-
tion of waters. The dean of the college of engineering
shall be reimbursed out of moneys appropriated for such
purposes, any and all sums which he necessarily shall ex-
pend in the performance of any services he may render
to the commission under the provisions hereof.

Chapter 20A. Water Resources


Section 1. Definitions.—Terms used in this article are
defined as follows:

(a) “Commission” shall mean the State Water Re-
sources Commission.

(b) “Commissioner” shall mean a member of the com-
mission.
(c) "Water resources" shall mean any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds, or diffused water on the surface of the ground, and water percolating, standing or flowing beneath the surface of the ground.

(d) "Domestic use" shall mean any use of water resources by occupants of land for personal need and for household purposes, including (1) uses for drinking, bathing, cooking and sanitation; (2) uses for maintaining poultry and animals kept for household sustenance; (3) uses for maintaining household pets, and (4) uses for heating and cooling private residences and for maintaining non-commercial lawns, gardens, or orchards appurtenant to private residences.

(e) "Commercial use" shall mean any use of water resources other than domestic use.

(f) "Person" shall mean any and all persons natural or artificial, including any municipal or private corporation organized or existing under the laws of this or any other state or country, any county court, government institu-
Sec. 2. Personnel.—The commission is authorized to employ such personnel as are required to carry out the purposes of this act.

Sec. 3. Surveys, Investigation, Inventories and Reports Regarding Water Resources and Their Use; Aid From Other Agencies and Persons.—The commission shall make surveys and investigations of the water resources of the state and, as soon as practicable, shall inventory the water resources of the state and to the extent practicable shall divide the state into watershed drainage areas in making this inventory. The commission shall investigate and study the problems of agriculture, industry, conservation, health, stream pollution, domestic and commercial uses and allied matters as they relate to water resources of the state, and shall make and formulate comprehensive plans and recommendations for the further development, improvement, protection, preservation, regulation and use of such water resources, giving proper consideration to the hydrologic cycle in which water moves. Annually,
17 not later than the first of November, the commission shall
18 prepare and publish a full report on the commission's
19 work as to collection and evaluation of the information
20 which has been obtained in accordance with the require-
21 ments of this section and shall include in this report the
22 plans and recommendations which have been formulated
23 pursuant to the requirements of this section. The report
24 shall include the commission's reasons for such plans and
25 recommendations, as well as any changes in the law which
26 are deemed desirable to effectuate such plans and recom-
27 mendations. Such reports shall be made available to the
28 public at a price to be determined by the commission.
29 The commission may request and, if requested, shall
30 receive from any agency of the state or any political sub-
31 division thereof, or from any other person who engages in
32 a commercial use or controls any of the water resources
33 of the state such necessary information and data as will as-
34 sist the commission in obtaining a complete picture of the
35 water resources of the state and their existing control and
36 commercial uses. The commission shall reimburse such
37 agencies, political subdivisions and other persons for any
expenses which would not otherwise have been incurred in making such information and data available to the commission.

Sec. 4. Powers and Duties of the Commission.—In order to effectuate the purposes of this article, the commission shall have the following duties and powers in addition to those heretofore or by other sections of this article conferred on the commission:

(1) To enter into compacts and agreements concerning this state's share of waters in watercourses where a portion of such waters are contained within the territorial limits of a neighboring state or states, subject to the approval of the Legislature;

(2) To cooperate with federal officers and agencies, other state agencies and officers, interstate agencies, and other interested persons in the conservation, improvement and development of water resources, and to this end the commission may receive money from such agencies and persons, on behalf of the state: Provided, That all moneys received as provided in this subsection shall be paid into a special fund which is hereby created in the state treasury.
and shall be expended, under the direction of the commission, solely for the purpose or purposes for which the grant, gift, or contribution shall have been made.

(3) To conduct, or contract for the conducting of, scientific investigations, experiments, and research and to collect data concerning the water resources of the state and pollution;

(4) To enter at all reasonable times upon any land, public or private, for the purpose of making surveys, examinations, investigations and studies needed in the gathering of facts concerning water resources and their use or pollution thereof, subject to responsibility for any damage to the property entered.

(5) To hold public hearings, pursuant to rules and regulations established by the commission, to obtain the necessary information to carry out the purposes of this article, particularly with reference to the formulation of plans and recommendations required by the provisions of section three of this article and at any such hearing, the commission or its duly authorized agents, shall have the power to administer oaths, to
take testimony, to issue subpoenas and to compel the
attendance of witnesses; and
(6) To advise all users of water resources as to the
availability of water resources and the most practicable
method of water diversion, use, development, and con-
servation.

Sec. 5. Authority of Commission to Approve Federal

Projects.—Whenever a federal law requires the approval
or recommendation of a state agency or any political sub-
division of the state in any matter relating to the water
resources of the state, the commission, subject to approval
of the Legislature, is hereby designated as the sole agency
to give the approval or recommendation required by the
federal law, unless the federal law specifically requires
the approval or recommendation of some other state
agency or political subdivision of the state.

Sec. 6. Enforcement; Offenses.—The commission shall
have the right to compel compliance with, or to prevent
violations and threatened violations of, the provisions of
this article by injunction proceedings if the offender fails
to comply with the terms of a cease and desist order served upon him by the commission.

Any person who violates any of the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof shall be fined not less than fifty nor more than three hundred dollars, and not less than one hundred nor more than five hundred dollars for each subsequent offense.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect [date] from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within [date] day of [month], 1959, approved this the 20th day of [month].

[Signature]
Governor