

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

SENATE BILL NO. 37

(By Mr. JACKSON OF LOGAN AND MR. MOATS)

PASSED March 11, 1959

In Effect 90 days from Passage



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

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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:

Article 11. State Water Resources Commission.

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

3 (a) “Commission”, which heretofore meant the state
4 water commission, on and after the effective date of this
5 section shall mean the State Water Resources Commis-
6 sion, a corporation created under the provisions of section
7 two of this article.

8 (b) “Commissioner” shall mean a member of the com-
9 mission.

10 (c) “Water” or “waters” shall mean all waters of any
11 river, stream, watercourse, pond or lake.

12 (d) “Pollution” shall mean the discharge or deposit,
13 directly or indirectly, of sewage, industrial wastes or other
14 substances, in such condition, manner or quantity as may
15 contaminate or alter the physical, chemical or biological
16 properties of any of the waters of the state to such extent
17 as to render such waters directly or indirectly detrimental
18 to the public health or unreasonably and adversely affect
19 such waters for present or future domestic, commercial,

20 industrial, agricultural, recreational or other legitimate
21 uses.

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

Sec. 2. *State Water Resources Commission, a Body*
2 *Corporate; Members of Commission; Aid by Division of*
3 *Sanitary Engineering and College of Engineering; Ex-*
4 *penses; Reimbursement for Expenditures.*—The State
5 Water Resources Commission shall be a corporation, and,
6 as such may sue and be sued, contract and be contracted
7 with, and it shall have a common seal.

8 The commission shall consist of the director of health,
9 the director of conservation, the superintendent of the
10 state geological and economic survey, and their successors
11 in office, and four other members to be appointed by the
12 governor with the advice and consent of the Senate. Com-
13 missioners in office at the effective date of this section

14 shall continue in office until the new appointees have been
15 appointed and qualified. The terms of office of the mem-
16 bers of the commission to be appointed by the governor
17 shall be for six years. The first appointments made under
18 the provisions of this section shall be as follows: Two
19 members for three years and two members for six years;
20 as these terms expire the offices shall be filled for six-year
21 terms. The members of the commission shall receive no
22 salary or remuneration for their services as such commis-
23 sioners but they shall be reimbursed, out of moneys ap-
24 propriated for such purposes, all sums which they neces-
25 sarily shall expend in the discharge of their duties as
26 members of such commission. The director of the division
27 of sanitary engineering in the state health department
28 shall perform such services as said commission may re-
29 quest of him in connection with its duties hereunder; he
30 shall be reimbursed, out of moneys appropriated for such
31 purposes, all sums which he necessarily shall expend in
32 the performance of such services. Nothing contained in
33 this article, however, shall be construed to limit or inter-
34 fere with the power of the state health department to

35 select, employ and direct the director of the division of
36 sanitary engineering of said department, or any employee
37 thereof who in any way may perform any services for
38 the commission. The college of engineering at West Vir-
39 ginia University, under the direction of the dean thereof,
40 shall, in so far as it can, without interference with its usual
41 and regular activities, aid and assist the commission in
42 the study and research of questions connected with pollu-
43 tion of waters. The dean of the college of engineering
44 shall be reimbursed out of moneys appropriated for such
45 purposes, any and all sums which he necessarily shall ex-
46 pend in the performance of any services he may render
47 to the commission under the provisions hereof.

Chapter 20A. Water Resources

Article 1. State Water Resources Commission.

Section 1. *Definitions.*—Terms used in this article are

2 defined as follows:

- 3 (a) “Commission” shall mean the State Water Re-
4 sources Commission.
- 5 (b) “Commissioner” shall mean a member of the com-
6 mission.

7 (c) "Water resources" shall mean any and all water on
8 or beneath the surface of the ground, including natural or
9 artificial watercourses, lakes, ponds, or diffused water on
10 the surface of the ground, and water percolating, standing
11 or flowing beneath the surface of the ground.

12 (d) "Domestic use" shall mean any use of water re-
13 sources by occupants of land for personal need and for
14 household purposes, including (1) uses for drinking, bath-
15 ing, cooking and sanitation; (2) uses for maintaining
16 poultry and animals kept for household sustenance; (3)
17 uses for maintaining household pets, and (4) uses for
18 heating and cooling private residences and for maintaining
19 non-commercial lawns, gardens, or orchards appurtenant
20 to private residences.

21 (e) "Commercial use" shall mean any use of water re-
22 sources other than domestic use.

23 (f) "Person" shall mean any and all persons natural or
24 artificial, including any municipal or private corporation
25 organized or existing under the laws of this or any other
26 state or country, any county court, government institu-

27 tion, agency or political subdivision as well as any firm or
28 association.

Sec. 2. *Personnel.*—The commission is authorized to
2 employ such personnel as are required to carry out the
3 purposes of this act.

Sec. 3. *Surveys, Investigation, Inventories and Reports*
2 *Regarding Water Resources and Their Use; Aid From*
3 *Other Agencies and Persons.*—The commission shall make
4 surveys and investigations of the water resources of the
5 state and, as soon as practicable, shall inventory the water
6 resources of the state and to the extent practicable shall
7 divide the state into watershed drainage areas in making
8 this inventory. The commission shall investigate and
9 study the problems of agriculture, industry, conservation,
10 health, stream pollution, domestic and commercial uses
11 and allied matters as they relate to water resources of
12 the state, and shall make and formulate comprehensive
13 plans and recommendations for the further development,
14 improvement, protection, preservation, regulation and use
15 of such water resources, giving proper consideration to
16 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

38 expenses which would not otherwise have been incurred
39 in making such information and data available to the
40 commission.

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

6 (1) To enter into compacts and agreements concerning
7 this state's share of waters in watercourses where a por-
8 tion of such waters are contained within the territorial
9 limits of a neighboring state or states, subject to the ap-
10 proval of the Legislature;

11 (2) To cooperate with federal officers and agencies,
12 other state agencies and officers, interstate agencies, and
13 other interested persons in the conservation, improvement
14 and development of water resources, and to this end the
15 commission may receive money from such agencies and
16 persons, on behalf of the state: *Provided*, That all moneys
17 received as provided in this subsection shall be paid into a
18 special fund which is hereby created in the state treasury

19 and shall be expended, under the direction of the com-
20 mission, solely for the purpose or purposes for which the
21 grant, gift, or contribution shall have been made.

22 (3) To conduct, or contract for the conducting of, scien-
23 tific investigations, experiments, and research and to col-
24 lect data concerning the water resources of the state and
25 pollution;

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

32 (5) To hold public hearings, pursuant to rules and
33 regulations established by the commission, to obtain
34 the necessary information to carry out the purposes
35 of this article, particularly with reference to the for-
36 mulation of plans and recommendations required by
37 the provisions of section three of this article and at
38 any such hearing, the commission or its duly authorized
39 agents, shall have the power to administer oaths, to

40 take testimony, to issue subpoenas and to compel the
41 attendance of witnesses; and

42 (6) To advise all users of water resources as to the
43 availability of water resources and the most practicable
44 method of water diversion, use, development, and con-
45 servation.

Sec. 5. *Authority of Commission to Approve Federal*
2 *Projects.*—Whenever a federal law requires the approval
3 or recommendation of a state agency or any political sub-
4 division of the state in any matter relating to the water
5 resources of the state, the commission, subject to approval
6 of the Legislature, is hereby designated as the sole agency
7 to give the approval or recommendation required by the
8 federal law, unless the federal law specifically requires
9 the approval or recommendation of some other state
10 agency or political subdivision of the state.

Sec. 6. *Enforcement; Offenses.*—The commission shall
2 have the right to compel compliance with, or to prevent
3 violations and threatened violations of, the provisions of
4 this article by injunction proceedings if the offender fails

5 to comply with the terms of a cease and desist order
6 served upon him by the commission.

7 Any person who violates any of the provisions of this
8 article shall be guilty of a misdemeanor, and, upon con-
9 viction thereof shall be fined not less than fifty nor
10 more than three hundred dollars, and not less than one
11 hundred nor more than five hundred dollars for each
12 subsequent offense.

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

W. Jasper
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the Senate.

Takes effect *90 days from* passage.

J. Howard Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Reph. Bean
President of the Senate

H. R. Pauley
Speaker House of Delegates

The within *approved* this the *20th* day of *March*, 1959.

Geoff Henderson
Governor

