

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 146

(By Mr. Committee sub. for)

PASSED March 4th 1961

In Effect ninety days from Passage

Filed in Office of the Secretary of State
of West Virginia March 14, 1961
JOE F. BURDETT
SECRETARY OF STATE

146

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 146

(Originating in the Committee on the Judiciary)

[Passed March 4, 1961; in effect ninety days from passage.]

AN ACT to repeal article one-c, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article designated article one-c, relating to the "Interstate Commission on the Potomac River Basin", and the revision of the interstate compact on the Potomac river basin.

Be it enacted by the Legislature of West Virginia:

That article one-c, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article one-c be enacted in lieu thereof, to read as follows:

Article 1-C. Interstate Commission on the Potomac River Basin.

Section 1. *Creation of Commission; Members; Terms;*

2 *Compact with Other Political Units.*—There is hereby
3 created a commission consisting of three members, to
4 act jointly with commissioners appointed for like purposes
5 by the commonwealths of Pennsylvania and Virginia, the
6 state of Maryland, and the District of Columbia, and an
7 additional three members to be appointed by the president
8 of the United States, and which, together with the other
9 commissioners appointed as hereinbefore mentioned,
10 shall constitute and be known as the “Interstate Commis-
11 sion on the Potomac River Basin”. The said commission
12 of the state of West Virginia shall consist of three mem-
13 bers. The governor, by and with the advice and consent
14 of the senate, shall appoint two persons as two of such
15 commissioners, each of whom shall be a resident and
16 citizen of this state. The terms of one of the said two
17 commissioners first appointed shall be three years and of
18 the other shall be six years; and their successors shall be
19 appointed by the governor, by and with the advice and
20 consent of the senate, for terms of six years each. Each

21 commissioner shall hold office until his successor shall be
22 appointed and qualified. Vacancies occurring in the of-
23 fice of any such commissioner for any reason or cause
24 shall be filled by appointment by the governor, by and
25 with the advice and consent of the senate, for the unex-
26 pired term. The third commissioner from this state shall
27 be the commissioner of health, ex officio, and the term
28 of any such ex officio commissioner shall terminate at the
29 time he ceases to hold said office of commissioner of
30 health, and his successor as a commissioner shall be his
31 successor as said commissioner of health. Said ex officio
32 commissioner may delegate, from time to time, to any
33 deputy or other subordinate in his department or office,
34 the power to be present and participate, including voting,
35 as his representative or substitute at any meeting of or
36 hearing by or other proceeding of the commission. The
37 term of each of the initial three members shall begin at
38 the date of the appointment of the two appointive com-
39 missioners, provided the compact hereinafter referred
40 to shall then have gone into effect, in accordance with
41 article six thereof, otherwise to begin upon the date

42 said compact shall become effective, in accordance with
43 said article six.

44 Any commissioner may be removed from office by the
45 governor.

46 The governor of the state of West Virginia is hereby
47 authorized and directed to execute a compact on behalf
48 of the state of West Virginia, with the other states and
49 the district hereinabove referred to, who may by their
50 legislative bodies so authorize a compact in form sub-
51 stantially as follows:

52 A COMPACT

53 WHEREAS, it is recognized that abatement of existing
54 pollution and the control of future pollution of interstate
55 streams can best be promoted through a joint agency
56 representing the several states located wholly or in part
57 within the area drained by any such interstate streams;
58 and

59 WHEREAS, the congress of the United States has given
60 its consent to the states of Maryland and West Virginia,
61 the commonwealths of Pennsylvania and Virginia, and
62 the District of Columbia to enter into a compact providing

63 for the creation of a conservancy district to consist of the
64 drainage basin of the Potomac river and the main and
65 tributary streams therein, for "the purpose of regulating,
66 controlling, preventing, or otherwise rendering unobjec-
67 tionable and harmless the pollution of the waters of said
68 Potomac drainage area by sewage and industrial and
69 other wastes"; and

70 WHEREAS, the regulation, control and prevention of
71 pollution is directly affected by the quantities of water
72 in said streams and the uses to which such water may be
73 put, thereby requiring integration and coordination of the
74 planning for the development and use of the water and
75 associated land resources through cooperation with, and
76 support and coordination of, the activities of federal, state,
77 local and private agencies, groups, and interests con-
78 cerned with the development, utilization and conservation
79 of the water and associated land resources of the said
80 conservancy district;

81 Now, therefore, the states of Maryland and West Vir-
82 ginia, the commonwealths of Pennsylvania and Virginia,
83 and the District of Columbia, hereinafter designated

105 elect from its number a chairman and vice chairman, shall
106 adopt suitable bylaws, shall make, adopt and promulgate
107 such rules and regulations as are necessary for its man-
108 agement and control, and shall adopt a seal.

109 (B). The commission shall appoint, and at its pleasure,
110 remove or discharge such officers and legal, engineering,
111 clerical, expert and other assistants as may be required
112 to carry the provisions of this compact into effect, and
113 shall determine their qualifications and fix their duties
114 and compensation. Such personnel as may be employed
115 shall be employed without regard to any civil service or
116 other similar requirements for employees of any of the
117 signatory bodies. The commission may maintain one or
118 more offices for the transaction of its business and may
119 meet at any time within the area of the signatory bodies.

120 (C). The commission shall keep accurate accounts of
121 all receipts and disbursements and shall make an annual
122 report thereof and shall in such report set forth in detail
123 the operations and transactions conducted by it pursuant
124 to this compact. The commission, however, shall not
125 incur any obligations for administrative or other expenses

126 prior to the making of appropriations adequate to meet
127 the same nor shall it in any way pledge the credit of any
128 of the signatory bodies. Each of the signatory bodies
129 reserves the right to make at any time an examination
130 and audit of the accounts of the commission.

131 (D). A quorum of the commission shall, for the trans-
132 action of business, the exercise of any powers, or the
133 performance of any duties, consist of at least six members
134 of the commission who shall represent at least a majority
135 of the signatory bodies: *Provided, however,* That no
136 action of the commission relating to policy or stream
137 classification or standards shall be binding on any one of
138 the signatory bodies unless at least two of the commis-
139 sioners from such signatory body shall vote in favor
140 thereof.

141 ARTICLE II

142 The commission shall have the power:

143 (A). To collect, analyze, interpret, coordinate, tabu-
144 late, summarize and distribute technical and other data
145 relative to, and to conduct studies, sponsor research and

146 prepare reports on, pollution and other water problems
147 of the conservancy district.

148 (B). To cooperate with the legislative and adminis-
149 trative agencies of the signatory bodies, or the equivalent
150 thereof, and with other commissions and federal, local
151 governmental and non-governmental agencies, organiza-
152 tions, groups and persons for the purpose of promoting
153 uniform laws, rules or regulations for the abatement and
154 control of pollution of streams and the utilization, con-
155 servation and development of the water and associated
156 land resources in the said conservancy district.

157 (C). To disseminate to the public information in rela-
158 tion to stream pollution problems and the utilization,
159 conservation and development of the water and associated
160 land resources of the conservancy district and on the
161 aims, views, purposes and recommendations of the com-
162 mission in relation thereto.

163 (D). To cooperate with, assist, and provide liaison for
164 and among, public and non-public agencies and organiza-
165 tions concerned with pollution and other water problems
166 in the formulation and coordination of plans, programs

167 and other activities relating to stream pollution or to the
168 utilization, conservation or development of water or asso-
169 ciated land resources, and to sponsor cooperative action
170 in connection with the foregoing.

171 (E). In its discretion and at any time during or after
172 the formulation thereof, to review and to comment upon
173 any plan or program of any public or private agency or
174 organization relating to stream pollution or the utilization,
175 conservation or development of water or associated land
176 resources.

177 (F) (1). To make, and, if needful from time to time,
178 revise and to recommend to the signatory bodies, reason-
179 able minimum standards for the treatment of sewage and
180 industrial or other wastes now discharged or to be dis-
181 charged in the future to the streams of the conservancy
182 district, and also for cleanliness of the various streams in
183 the conservancy district.

184 (2). To establish reasonable physical, chemical and
185 bacteriological standards of water quality satisfactory
186 for various classifications of use. It is agreed that each
187 of the signatory bodies through appropriate agencies will

188 prepare a classification of its interstate waters in the
189 district in entirety or by portions according to present
190 and proposed highest use, and for this purpose technical
191 experts employed by appropriate state water pollution
192 control agencies are authorized to confer on questions
193 relating to classification of interstate waters affecting two
194 or more states. Each signatory body agrees to submit its
195 classification of its interstate waters to the commission
196 with its recommendations thereon.

197 The commission shall review such classification and
198 recommendations and accept or return the same with its
199 comments. In the event of return, the signatory body
200 will consider the comments of the commission and re-
201 submit the classification proposal, with or without amend-
202 ment, with any additional comments for further action
203 by the commission.

204 It is agreed that after acceptance of such classification,
205 the signatory body through its appropriate state water
206 pollution control agencies will work to establish programs
207 of treatment of sewage and industrial wastes which will
208 meet or exceed standards established by the commission

209 for classified waters. The commission may from time
210 to time make such changes in definitions of classifications
211 and in standards as may be required by changed condi-
212 tions or as may be necessary for uniformity and in a
213 manner similar to that in which these standards and
214 classifications were originally established.

215 It is recognized, owing to such variable factors as loca-
216 tion, size, character and flow and the many varied uses of
217 the waters subject to the terms of this compact, that no
218 single standard of sewage and waste treatment and no
219 single standard of quality of receiving waters is practical
220 and that the degree of treatment of sewage and industrial
221 wastes should take into account the classification of the
222 receiving waters according to present and proposed
223 highest use, such as for drinking water supply, bathing
224 and other recreational purposes, maintenance and propa-
225 gation of fish life, industrial and agricultural uses, navi-
226 gation and disposal of wastes.

227 ARTICLE III

228 For the purpose of dealing with the problems of pollu-
229 tion and of water and associated land resources in specific

230 areas which directly affect two or more, but not all,
231 signatory bodies, the commission may establish sections
232 of the commission consisting of the commissioners from
233 such affected signatory bodies: *Provided, however,* That
234 no signatory body may be excluded from any section in
235 which it wishes to participate. The commissioners ap-
236 pointed by the president of the United States may par-
237 ticipate in any section. The commission shall designate,
238 and from time to time may change, the geographical area
239 with respect to which each section shall function. Each
240 section shall, to such extent as the commission may from
241 time to time authorize, have authority to exercise and
242 perform with respect to its designated geographical area
243 any power or function vested in the commission, and in
244 addition may exercise such other powers and perform
245 such functions as may be vested in such section by the
246 laws of any signatory body or by the laws of the United
247 States. The exercise or performance by a section of any
248 power or function vested in the commission may be
249 financed by the commission, but the exercise or per-
250 formance of powers or functions vested solely in a section

251 shall be financed through funds provided in advance by
252 the bodies, including the United States, participating in
253 such section.

254 **ARTICLE IV**

255 The moneys necessary to finance the commission in the
256 administration of its business in the conservancy district
257 shall be provided through appropriations from the signa-
258 tory bodies and the United States, in the manner pre-
259 scribed by the laws of the several signatory bodies and
260 of the United States, and in amounts as follows:

261 The pro rata contribution shall be based on such factors
262 as population; the amount of industrial and domestic
263 pollution; and a flat service charge; as shall be determined
264 from time to time by the commission, subject, however,
265 to the approval, ratification and appropriation of such
266 contribution by the several signatory bodies.

267 **ARTICLE V**

268 Pursuant to the aims and purposes of this compact, the
269 signatory bodies mutually agree:

270 1. Faithful cooperation in the abatement of existing
271 pollution and the prevention of future pollution in the

272 streams of the conservancy district and in planning for
273 the utilization, conservation and development of the
274 water and associated land resources thereof.

275 2. The enactment of adequate and, insofar as is prac-
276 ticable, uniform legislation for the abatement and control
277 of pollution and control and use of such streams.

278 3. The appropriation of biennial sums on the propor-
279 tionate basis as set forth in article four.

280 ARTICLE VI

281 This compact shall become effective immediately after
282 it shall have been ratified by the majority of the legis-
283 lature of the states of Maryland and West Virginia, the
284 commonwealths of Pennsylvania and Virginia, and by
285 the commissioners of the District of Columbia, and ap-
286 proval by the Congress of the United States: *Provided,*
287 *however,* That this compact shall not be effective as to
288 any signatory body until ratified thereby.

289 ARTICLE VII

290 Any signatory body may, by legislative action, after
291 one year's notice to the commission, withdraw from this
292 compact.

Sec. 2. *Appointment of Alternates.*—The governor, by
2 and with the consent of the senate, shall appoint an
3 alternate member for the two members of the commission
4 who are not ex officio, and each alternate shall have power
5 to act in the absence of the person for whom he is alter-
6 nate. The governor shall appoint the first alternates
7 hereunder on or before July first, one thousand nine
8 hundred forty-nine, the term of each alternate to run
9 concurrently with the term of the member for whom
10 he is alternate.

Sec. 3. *Expenses of Commission; Appropriation; Offi-
2 cers and Employees; Meetings.*—The commissioners shall
3 be reimbursed, out of moneys appropriated for such pur-
4 poses, all sums which they necessarily shall expend in the
5 discharge of their duties as members of such commission.
6 There shall be appropriated to the commission out of
7 any moneys in the state treasury unexpended and avail-
8 able therefor, and not otherwise appropriated, such sums
9 as may be necessary for the uses and purposes of the com-
10 mission in carrying out the provisions of this article and
11 the payment of the proper proportion of the state of West

12. Virginia of the expenses of the "Interstate Commission on
13. the Potomac River Basin", in accordance with article four
14. of said compact.
15. The commission shall elect from its membership a chair-
16. man and may also select a secretary who need not be a
17. member. The commission may employ such assistants as
18. it may deem necessarily required, and the duties of such
19. assistants shall be prescribed and their compensation
20. fixed by the commission and paid out of the state treasury
21. out of funds appropriated for such purposes upon the
22. requisition of said commission.

23. The commission shall meet at such times and places as
24. agreed upon by the commissioners or upon call of its
25. chairman.

Sec. 4. *Effective Date.*—This act shall become effective
2 upon the adoption of substantially similar amendments
3 to the interstate compact by each of the signatory states
4 to the compact, and upon the approval of the amendments
5 to the compact by the congress of the United States.

Sec. 5. *Restrictions.*—Neither the governor of the state
2 of West Virginia nor any member of the commission afore-

3 said, representing the state of West Virginia, shall consent
4 to the construction of any dam, whether in the state of
5 West Virginia, or without this state, which shall flood
6 lands in this state, without the express consent of the
7 legislature.

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

Howard Davis, Jr.
Chairman Senate Committee

Mrs. H. H. Withrow
Chairman House Committee

Originated in the Senate.

Takes effect seventy days from passage.
Thomas H. Gray
Clerk of the Senate

R. A. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within appeared this the eleventh
day of March, 1961.

W. M. Barron
Governor

