WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 146
(By Mr......Committee sub for)

PASSED March 15th, 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
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article one-c, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article one-c be enacted in lieu thereof, to read as follows: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; Compact with Other Political Units.—There is hereby created a commission consisting of three members, to act jointly with commissioners appointed for like purposes by the commonwealths of Pennsylvania and Virginia, the state of Maryland, and the District of Columbia, and an additional three members to be appointed by the president of the United States, and which, together with the other commissioners appointed as hereinbefore mentioned, shall constitute and be known as the “Interstate Commission on the Potomac River Basin”. The said commission of the state of West Virginia shall consist of three members. The governor, by and with the advice and consent of the senate, shall appoint two persons as two of such commissioners, each of whom shall be a resident and citizen of this state. The terms of one of the said two commissioners first appointed shall be three years and of the other shall be six years; and their successors shall be appointed by the governor, by and with the advice and consent of the senate, for terms of six years each. Each
commissioner shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of any such commissioner for any reason or cause shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired term. The third commissioner from this state shall be the commissioner of health, ex officio, and the term of any such ex officio commissioner shall terminate at the time he ceases to hold said office of commissioner of health, and his successor as a commissioner shall be his successor as said commissioner of health. Said ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his department or office, the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the commission. The term of each of the initial three members shall begin at the date of the appointment of the two appointive commissioners, provided the compact hereinafter referred to shall then have gone into effect, in accordance with article six thereof, otherwise to begin upon the date
said compact shall become effective, in accordance with said article six.

Any commissioner may be removed from office by the governor.

The governor of the state of West Virginia is hereby authorized and directed to execute a compact on behalf of the state of West Virginia, with the other states and the district hereinabove referred to, who may by their legislative bodies so authorize a compact in form substantially as follows:

A COMPACT

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

and

WHEREAS, the congress of the United States has given its consent to the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of Columbia to enter into a compact providing
for the creation of a conservancy district to consist of the drainage basin of the Potomac river and the main and tributary streams therein, for "the purpose of regulating, controlling, preventing, or otherwise rendering unobjectionable and harmless the pollution of the waters of said Potomac drainage area by sewage and industrial and other wastes"; and

WHEREAS, the regulation, control and prevention of pollution is directly affected by the quantities of water in said streams and the uses to which such water may be put, thereby requiring integration and coordination of the planning for the development and use of the water and associated land resources through cooperation with, and support and coordination of, the activities of federal, state, local and private agencies, groups, and interests concerned with the development, utilization and conservation of the water and associated land resources of the said conservancy district;

Now, therefore, the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of Columbia, hereinafter designated
signatory bodies, do hereby create the Potomac valley
conservancy district, hereinafter designated the con-
servancy district, comprising all of the area drained by
the Potomac river and its tributaries; and also, do hereby
create, as an agency of each signatory body, the interstate
commission on the Potomac river basin, hereinafter desig-
nated the commission, under the articles of organization
as set forth below.

ARTICLE I

The interstate commission on the Potomac river basin
shall consist of three members from each signatory body
and three members appointed by the president of the
United States. Said commissioners, other than those ap-
pointed by the president, shall be chosen in a manner and
for the terms provided by law of the signatory body from
which they are appointed and shall serve without compen-
sation from the commission but shall be paid by the com-
mission their actual expenses incurred and incident to
the performance of their duties.

(A). The commission shall meet and organize within
thirty days after the effective date of this compact, shall
elect from its number a chairman and vice chairman, shall
adopt suitable bylaws, shall make, adopt and promulgate
such rules and regulations as are necessary for its man-
agement and control, and shall adopt a seal.

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

(C). The commission shall keep accurate accounts of
all receipts and disbursements and shall make an annual
report thereof and shall in such report set forth in detail
the operations and transactions conducted by it pursuant
to this compact. The commission, however, shall not
incur any obligations for administrative or other expenses
prior to the making of appropriations adequate to meet
the same nor shall it in any way pledge the credit of any
of the signatory bodies. Each of the signatory bodies
reserves the right to make at any time an examination
and audit of the accounts of the commission.

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

ARTICLE II

The commission shall have the power:

(A). To collect, analyze, interpret, coordinate, tabu-
late, summarize and distribute technical and other data
relative to, and to conduct studies, sponsor research and
prepare reports on, pollution and other water problems
of the conservancy district.

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

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

(D). To cooperate with, assist, and provide liaison for
and among, public and non-public agencies and organiza-
tions concerned with pollution and other water problems
in the formulation and coordination of plans, programs
and other activities relating to stream pollution or to the
treatment, conservation or development of water or associated
land resources, and to sponsor cooperative action
in connection with the foregoing.

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

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

(2). To establish reasonable physical, chemical and
bacteriological standards of water quality satisfactory
for various classifications of use. It is agreed that each
of the signatory bodies through appropriate agencies will
prepare a classification of its interstate waters in the
district in entirety or by portions according to present
and proposed highest use, and for this purpose technical
experts employed by appropriate state water pollution
control agencies are authorized to confer on questions
relating to classification of interstate waters affecting two
or more states. Each signatory body agrees to submit its
classification of its interstate waters to the commission
with its recommendations thereon.

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

It is agreed that after acceptance of such classification,
the signatory body through its appropriate state water
pollution control agencies will work to establish programs
of treatment of sewage and industrial wastes which will
meet or exceed standards established by the commission
for classified waters. The commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity and in a manner similar to that in which these standards and classifications were originally established.

It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, bathing and other recreational purposes, maintenance and propagation of fish life, industrial and agricultural uses, navigation and disposal of wastes.

ARTICLE III

For the purpose of dealing with the problems of pollution and of water and associated land resources in specific
areas which directly affect two or more, but not all, signatory bodies, the commission may establish sections of the commission consisting of the commissioners from such affected signatory bodies: Provided, however, That no signatory body may be excluded from any section in which it wishes to participate. The commissioners appointed by the president of the United States may participate in any section. The commission shall designate, and from time to time may change, the geographical area with respect to which each section shall function. Each section shall, to such extent as the commission may from time to time authorize, have authority to exercise and perform with respect to its designated geographical area any power or function vested in the commission, and in addition may exercise such other powers and perform such functions as may be vested in such section by the laws of any signatory body or by the laws of the United States. The exercise or performance by a section of any power or function vested in the commission may be financed by the commission, but the exercise or performance of powers or functions vested solely in a section
shall be financed through funds provided in advance by the bodies, including the United States, participating in such section.

ARTICLE IV

The moneys necessary to finance the commission in the administration of its business in the conservancy district shall be provided through appropriations from the signatory bodies and the United States, in the manner prescribed by the laws of the several signatory bodies and of the United States, and in amounts as follows:

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

ARTICLE V

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

1. Faithful cooperation in the abatement of existing pollution and the prevention of future pollution in the
streams of the conservancy district and in planning for
the utilization, conservation and development of the
water and associated land resources thereof.

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

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

ARTICLE VI

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

ARTICLE VII

Any signatory body may, by legislative action, after
one year's notice to the commission, withdraw from this
compact.
Sec. 2. Appointment of Alternates.—The governor, by
and with the consent of the senate, shall appoint an
alternate member for the two members of the commission
who are not ex officio, and each alternate shall have power
to act in the absence of the person for whom he is alter-
nate. The governor shall appoint the first alternates
hereunder on or before July first, one thousand nine
hundred forty-nine, the term of each alternate to run
concurrently with the term of the member for whom
he is alternate.

Sec. 3. Expenses of Commission; Appropriation; Offi-
cers and Employees; Meetings.—The commissioners shall
be reimbursed, out of moneys appropriated for such pur-
poses, all sums which they necessarily shall expend in the
discharge of their duties as members of such commission.

There shall be appropriated to the commission out of
any moneys in the state treasury unexpended and avail-
able therefor, and not otherwise appropriated, such sums
as may be necessary for the uses and purposes of the com-
mission in carrying out the provisions of this article and
the payment of the proper proportion of the state of West
The commission shall elect from its membership a chairman and may also select a secretary who need not be a member. The commission may employ such assistants as it may deem necessarily required, and the duties of such assistants shall be prescribed and their compensation fixed by the commission and paid out of the state treasury out of funds appropriated for such purposes upon the requisition of said commission.

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

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

Sec. 5. Restrictions.—Neither the governor of the state of West Virginia nor any member of the commission afore-
said, representing the state of West Virginia, shall consent
to the construction of any dam, whether in the state of
West Virginia, or without this state, which shall flood
lands in this state, without the express consent of the
legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect immediately from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor