

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976



ENROLLED

SENATE BILL NO. 143

(By Mr. Benson, Mr. Beach and Mr. Gillingham)



PASSED February 6, 1976

In Effect from Passage



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Senate Bill No. 143

(By MR. BENSON, MR. BEALL AND MR. GILLIGAN)

[Passed February 6, 1976; in effect from passage.]

AN ACT to amend and reenact section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend chapter nineteen of said code by adding thereto a new article, designated article twelve-a, all relating to abolishing certain special revenue farm accounts in the state treasury; the creation of a farm management commission; providing a legislative purpose; establishing certain definitions; designating the chairman of the commission; quorum and requiring meetings of the commission; providing for the transfer of certain institutional farms to the commission; providing for the uninterrupted operation of the farms; prescribing powers, duties and responsibilities of the commission; providing for the appointment of a farm management director; qualification of the director; listing the powers and duties of the director; establishing the priority of distribution of farm products; providing a procedure for establishing the division lines between farms and institutions; providing for appeals to the commission; providing a remedy; employment of persons affected by the transfer of institutional farms; and establishing a penalty for violations.

Be it enacted by the Legislature of West Virginia:

That section two, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted and that chapter nineteen of said code be amended by adding thereto a new article, designated article twelve-a, all to read as follows:

CHAPTER 12. PUBLIC MONEY AND SECURITIES.**ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS DUE THE STATE OR ANY POLITICAL SUBDIVISION.****§12-2-2. Itemized record of moneys received for deposit; credit to state fund; exceptions.**

1 All officials and employees of the state authorized by
2 statute to accept moneys due the state of West Virginia
3 shall keep a daily itemized record of such moneys so re-
4 ceived for deposit in the state treasury and shall deposit
5 promptly with the state treasurer all moneys received or
6 collected by them for or on behalf of the state for any
7 purpose whatsoever. When so paid, such moneys shall be
8 credited to the state fund and treated by the auditor and
9 treasurer as part of the general revenue of the state, and
10 shall not be used for any purpose whatsoever unless and
11 until authorized and directed by the Legislature, except
12 the following funds:

13 (a) All moneys received out of appropriations made
14 by the Congress of the United States;

15 (b) All funds derived from the sale of farm and
16 dairy products from farms operated by any agency of
17 state government other than the farm management com-
18 mission;

19 (c) All endowment funds, bequests, donations, execu-
20 tive emergency funds, and death and disability funds;

21 (d) All fees and funds collected at state educational
22 institutions for student activities;

23 (e) All funds derived from collections from dormi-
24 tories, boardinghouses, cafeterias and road camps;

25 (f) All moneys received from counties by institutions
26 for the deaf and blind on account of clothing for indi-
27 gent pupils;

28 (g) All insurance collected on account of losses by
29 fire and refunds;

30 (h) All funds derived from bookstores and sales of
31 blank paper and stationery, and collections by the chief
32 inspector of public offices;

33 (i) All moneys collected and belonging to the capitol

34 building fund, state road fund, state road sinking funds,
35 general school fund, school fund, state fund (moneys
36 belonging to counties, districts and municipalities), state
37 interest and sinking fund, state compensation funds, the
38 fund maintained by the public service commission for the
39 investigation and supervision of applications and licenses
40 under article nine, chapter thirty-one of this code, and all
41 funds and moneys payable to or received by the natural
42 resources commission of West Virginia;

43 (j) All moneys collected or received under any act of
44 the Legislature providing that funds collected or received
45 thereunder shall be used for specific purposes.

46 All moneys, excepted as aforesaid, shall be paid into
47 the state treasury in the same manner as collections not so
48 excepted, and shall be carried in separate accounts to be
49 used and expended only for the purposes for which the
50 same are authorized to be collected by law. The gross
51 amount collected in all cases shall be paid into the state
52 treasury, and commissions, costs and expenses of collec-
53 tion authorized by general law to be paid out of the gross
54 collection are hereby authorized to be paid out of the
55 moneys collected and paid into the state treasury in the
56 same manner as other payments are made from the state
57 treasury.

58 The official or employee making such deposits in the
59 state treasury shall prepare such deposit lists in triplicate
60 in such manner and upon such report forms as may be
61 prescribed by the commissioner of finance and adminis-
62 tration. The original of this report shall accompany the
63 deposit to the treasurer's office. Certified or receipted
64 copies shall be immediately forwarded by the official or
65 employee making such deposit to the state auditor and
66 to the commissioner of finance and administration, and a
67 copy shall be kept by the official or employee making the
68 report and shall become a part of his permanent record.

CHAPTER 19. AGRICULTURE.

ARTICLE 12A. FARM MANAGEMENT COMMISSION.

§19-12A-1. Legislative purpose.

1 The Legislature hereby finds and declares that in order
2 to ensure economic and efficient land use, increase and

3 improve agricultural production and provide food for
4 residents of state operated institutions, state-owned farms
5 should be transferred to the state farm management
6 commission as is provided by this article. The Legislature
7 also finds and declares that the operation of all institu-
8 tional farms under one management system with a single
9 integrated farm plan is the most efficient method of
10 providing the food needs of residents of state operated
11 institutions and will promote the health and welfare of all
12 citizens of this state.

§19-12A-2. Definitions.

1 For the purpose of this article:

2 "Agricultural products" means livestock and livestock
3 products, poultry and poultry products, fruits and fruit
4 products, vegetables and vegetable products, grains and
5 hays and the products derived therefrom, tobacco, syrups,
6 honey, and other products derived from the business of
7 farming; including such other products as may be manu-
8 factured, derived, or prepared from agricultural products,
9 raw or processed, which are used as food for man or
10 animals.

11 "Commission" means the farm management commis-
12 sion as established by this article.

13 "Farm equipment" means any equipment used for
14 agricultural production, owned by an institution and
15 transferred to the commission as provided in this article.

16 "Farm facility" means any processing plant, milking
17 parlor, farm equipment storage building, barn, silo, grain
18 storage building, swinery or any other building owned by
19 an institution, used in its farming operations and trans-
20 ferred to the commission as provided in this article.

21 "Institution" means any facility operated by the de-
22 partment of mental health or the state commissioner of
23 public institutions for care, treatment, confinement or
24 rehabilitation of residents.

25 "Institutional farm" means any land owned by the
26 department of mental health or the state commissioner of
27 public institutions which was formerly operated as a farm,
28 is now being operated as a farm or could be converted to

29 agricultural production, and is transferred to the com-
30 mission as provided in this article.

§19-12A-3. Farm management commission created; composition; chairman; quorum; meetings.

1 There is hereby created within state government a farm
2 management commission composed of three members who
3 are the commissioner of agriculture, who shall be chair-
4 man, the commissioner of finance and administration and
5 the dean of the West Virginia University college of
6 agriculture and forestry. No business may be transacted
7 by the commission in the absence of a quorum which
8 consists of two members including the chairman. The farm
9 management commission shall hold meetings at least once
10 every two months, and on call of the chairman.

11 If a vacancy occurs on the commission, the farm manage-
12 ment director, as provided in this article, shall act as a
13 member of the commission until the vacancy is filled.

14 If a vacancy occurs in the office of the commissioner
15 of agriculture, the members of the commission and the
16 farm management director shall select, from among them,
17 a chairman to serve until a commissioner of agriculture
18 is appointed or elected and qualified.

§19-12A-4. Transfer of institutional farms, farm equipment, farm facilities, inventories and agricultural products to commission; utility continuance.

1 (a) On the first day of July, one thousand nine hun-
2 dred seventy-six, the department of mental health shall
3 transfer all institutional farms and all easements, min-
4 eral rights, appurtenances, farm equipment, agricultural
5 products, inventories and farm facilities thereon, or at-
6 tached thereto, to the commission as set forth below:

7 (1) The Colin Anderson institutional farm, located at
8 St. Marys, Pleasants County, which shall include not
9 less than six hundred fifty acres;

10 (2) The Huntington state hospital institutional farm,
11 located at Barboursville, Cabell County, which shall in-
12 clude not less than six hundred ninety-seven acres;

13 (3) The Lakin state hospital institutional farm, lo-

14 cated at Lakin, Mason County, which shall include not
15 less than nine hundred fifty acres;

16 (4) The Spencer state hospital institutional farm,
17 located at Spencer, Roane County, which shall include
18 not less than one hundred nine acres;

19 (5) The Weston state hospital institutional farm, lo-
20 cated at Weston, Lewis County, which shall include not
21 less than five hundred seventy acres; and

22 (6) The Roney's Point branch hospital institutional
23 farm located at Triadelphia, Ohio County, which shall
24 include not less than one hundred thirty acres.

25 (b) On the first day of July, one thousand nine hun-
26 dred seventy-six, the state commissioner of public insti-
27 tutions shall transfer all institutional farms and all ease-
28 ments, mineral rights, appurtenances, farm equipment,
29 agricultural products, inventories and farm facilities
30 thereon or attached thereto to the commission as set
31 forth below:

32 (1) The Huttonsville correctional center institutional
33 farm, located at Huttonsville, Randolph County, which
34 shall include not less than five thousand two hundred
35 acres, including all of the tract of land commonly known
36 as Becky's Creek farm;

37 (2) The Hopemont state hospital institutional farm,
38 located at Terra Alta, Preston County, which shall in-
39 clude not less than five hundred acres;

40 (3) The West Virginia industrial school for boys in-
41 stitutional farm, located at Pruntytown, Taylor County,
42 which shall include not less than one thousand five hun-
43 dred eighty-seven acres;

44 (4) The West Virginia prison for women institutional
45 farm, located at Pence Springs, Summers County, which
46 shall include not less than one hundred eighty acres;

47 (5) The Pinecrest state hospital institutional farm,
48 located at Beckley, Raleigh County, which shall include
49 not less than two hundred twenty acres;

50 (6) The West Virginia penitentiary institutional farm,
51 located at Moundsville, Marshall County, which shall
52 contain not less than one hundred forty-one acres;

53 (7) The Denmar state hospital institutional farm,
54 located at Beard, Pocahontas County, which shall include
55 not less than one hundred twelve acres;

56 (8) The Andrew S. Rowan memorial home institu-
57 tional farm, located at Sweet Springs, Monroe County,
58 which shall include not less than six hundred fifty
59 acres;

60 (9) The West Virginia children's home institutional
61 farm, located at Elkins, Randolph County, which shall
62 include not less than one hundred fifty acres; and

63 (10) The West Virginia industrial home for girls in-
64 stitutional farm, located at Industrial, Harrison County,
65 which shall include not less than twenty acres.

66 (c) In the event a water supply system, a sewage
67 disposal system or any other utility or service facility
68 involved in the operation of an institution is hereby
69 transferred to the commission, an easement is hereby
70 granted to the institution affected to enable the institu-
71 tion to continue, uninterrupted, the water supply system,
72 the sewage disposal system or the utility or service facility
73 so transferred.

74 If an institutional farm is dependent upon a water
75 supply system, a sewage disposal system or any other
76 utility or service facility located on the property of an
77 institution, an easement is hereby granted to the com-
78 mission to enable the commission to continue, uninter-
79 rupted, the water supply system, the sewage disposal
80 system or the utility or service facility involved.

81 In all cases where an institution and a farm under the
82 control of the commission are jointly dependent on the
83 same water supply system, sewage disposal system, util-
84 ity or service facility, the cost shall be prorated on the
85 basis of the amount used by the institution and the in-
86 stitutional farm.

87 (d) In order to provide for the uninterrupted oper-
88 ation of institutional farms, the commission shall, before
89 the twenty-fifth day of June, one thousand nine hundred
90 seventy-six, meet and establish a farm management plan.
91 Before the twenty-fifth day of June, one thousand nine
92 hundred seventy-six, the commission shall employ a farm

93 management director and establish an employee system.
94 The commission and the farm management director shall
95 meet and confer with the commissioner of public institu-
96 tions and the director of the department of mental health
97 prior to the first day of July, one thousand nine hundred
98 seventy-six, to facilitate the orderly transfer of the insti-
99 tutional farms. The state commissioner of public institu-
100 tions and the director of the department of mental health
101 shall cooperate fully with the commission to ensure that
102 farming operations are not discontinued prior to their
103 transfer to the commission.

104 (e) After the thirtieth day of June but no later than
105 the fifteenth of July, one thousand nine hundred seventy-
106 six, all funds remaining in all institutional farms' spe-
107 cial revenue accounts shall be transferred to the general
108 revenue account of the state and all institutional farms'
109 special revenue accounts shall be abolished.

§19-12A-5. Powers, duties and responsibilities of commission.

1 The purpose of the commission is to manage institu-
2 tional farms for the most efficient production of food
3 products for residents of state institutions. The commis-
4 sion has full power and authority over the institutional
5 farms, farm management, farm employees and farm pro-
6 duction. It is the responsibility of the commission to
7 implement the intent of the Legislature. The commission
8 shall confer with the West Virginia college of agriculture
9 and forestry in implementing and adjusting its farm man-
10 agement plan. The commission may promulgate rules and
11 regulations relating to farm management. When and if
12 requested by the commissioner of public institutions, the
13 farm management commission may use inmates from
14 adult correctional institutions for farm labor. The com-
15 missioner of public institutions shall be responsible for
16 the selection, direction and supervision of the inmates
17 and the farm management director shall assign the work
18 to be performed by inmates.

**§19-12A-6. Appointment of farm management director; quali-
fications; powers and duties.**

1 The commission shall appoint a farm management di-
2 rector who, in addition to qualifications established by the

3 commission, shall have owned, operated or managed a
4 farm for at least five years within ten years immediately
5 prior to his appointment. The farm management director
6 is the chief executive officer of the commission and is
7 responsible for conducting the operations of the farms.
8 He shall prepare an annual report of the farming opera-
9 tions, including a listing of all receipts and expenditures
10 and shall present it to the commission and the Legislature
11 at the end of each fiscal year.

12 As authorized or directed by the commission, he shall
13 also:

14 (1) Prepare the annual budget request for the opera-
15 tion of the institutional farms and submit it to the com-
16 mission for approval and submission to the commissioner
17 of finance and administration.

18 (2) Receive and approve all requisitions for farm
19 supplies and equipment.

20 (3) Supervise the operation of all canneries and de-
21 termine what foods are to be canned.

22 (4) Recruit and approve assistant farm managers to
23 supervise each institutional farm.

24 (5) Implement all orders of the commission.

25 (6) Supervise all other employees of the commission.

26 (7) Transfer farm supplies, farm equipment, farm
27 facilities, food stuffs and produce from one institutional
28 farm to another to promote efficiency and improve farm
29 management.

30 With the approval of the commission, the farm man-
31 agement director may rent or lease additional land for
32 farm use.

33 From the total amount of food, milk and other com-
34 modities produced on institutional farms, the farm man-
35 agement director shall provide each of the institutions
36 under the control of the department of mental health and
37 the state commissioner of public institutions, at no cost,
38 a proportionate amount of these products based on the
39 population and dietary needs of each institution and each
40 of these institutions shall use the food, milk and com-
41 modities provided by the farm management director for
42 their annual food requirements. By the thirtieth day of

43 September each year, each institution shall present to the
44 farm management director a requisition request for the
45 food, milk and other commodities the institution will need
46 during the next fiscal year.

47 If, during the year, an institution finds that it needs
48 other or additional food, milk or commodities not included
49 in the requisition request for the year, the institutional
50 superintendent shall forward a supplemental request for
51 the additional or other food, milk or commodities to the
52 farm management director at least thirty days before the
53 farm management director is to deliver such other or
54 additional food, milk or commodities to the institution. An
55 institution may purchase food, milk or commodities from
56 other sources if the farm management director certifies
57 in writing that he will be unable to supply the needed
58 food, milk or commodities at the time such food, milk or
59 commodities will be needed by the institution. If institu-
60 tional farms produce more food, milk and other com-
61 modities than can be consumed by the institutions, the
62 farm management director first shall sell this surplus to
63 other state agencies which request it at the wholesale fair
64 market price for the products. If any surplus remains
65 after sales to other state agencies, he may sell the surplus
66 on the open market. All revenues derived from the sale
67 of any farm product shall be deposited by the farm
68 management director in the general revenue fund of the
69 state.

**§19-12A-7. Farm division lines to be established; appeal to
commission; remedy.**

1 The farm management director shall, immediately after
2 being appointed, employ a surveyor to establish the
3 division line between the farms being transferred to the
4 commission and the property remaining under the control
5 and authority of the department of mental health and the
6 state commissioner of public institutions. In establishing
7 the division line, the director of the department of mental
8 health, the state commissioner of public institutions and
9 the farm management director shall cooperate fully to
10 ensure that property, essential to institutions, is not trans-
11 ferred to the commission. In the event of a disagreement
12 over the placement of a division line, the disposition of

13 farm equipment or the disposition of farm facilities, the
14 farm management director and all agencies involved
15 shall, within sixty days, appear before the commission for
16 a hearing on the matter. The commission shall decide the
17 matter to the best interest of the agencies involved,
18 including the best interest of the residents of any insti-
19 tution affected. Any person or agency aggrieved by the
20 decision of the commission may appeal the decision to the
21 circuit court in the county in which the institution is
22 located. After the division lines have been finally estab-
23 lished, all property transferred to the commission shall
24 be deeded by the department of mental health and the
25 commissioner of public institutions to the commission
26 unless reversionary interests prevent such deed transfer
27 in which case the land shall be assigned or leased, for
28 nominal charge, to the commission.

§19-12A-8. Effect of farm transfer on employees; disposition.

1 Farm employees of the department of mental health
2 and the state commissioner of public institutions, who are
3 affected by the provisions of this article, may apply for
4 employment with the institution in another job classi-
5 fication or they may apply for employment with the
6 commission if they meet the qualifications established by
7 the commission for its employees.

§19-12A-9. Penalty.

1 Any person who violates any of the provisions of this
2 article shall be guilty of a misdemeanor, and, upon con-
3 viction thereof, shall be fined not less than five hundred
4 nor more than one thousand dollars.

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

James L. Davis
Chairman Senate Committee

Corene C. Christian Jr.
Chairman House Committee

Originated in the Senate.

To take effect from passage.

J. C. Dillon Jr.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. T. Gauthier Jr.
President of the Senate

Lewis R. H. Hume
Speaker House of Delegates

The within disapproved this the 16th
day of February, 1976

Arch A. Shaver Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/10/76

Time 5:00 p.m.