

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-3-82

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982

— ● —

## ENROLLED

Com. Sub. for  
HOUSE BILL No. 1216

(By Mr. Allbright + Mr. Steptoe)

— ● —

Passed February 22, 1982

In Effect Ninety Days From Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 1216**  
(By MR. ALBRIGHT and MR. STEPTOE)

[Passed February 22, 1982; in effect ninety days from passage.]

AN ACT to amend article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto seven new sections, designated sections seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, relating to allowing county commissions to adopt and implement farmland preservation programs; authorizing county commissions to appoint farmland advisory committees; requiring farmland advisory committees to propose farmland preservation programs; requiring farmland preservation programs to be integral parts of county comprehensive plans; specifying minimum requirements for adopted farmland preservation programs; specifying some acceptable methods of farmland preservation; imposing an annual fee on leases of property purchased by the county commission for farmland preservation purposes; designating funds which the county commission may use to fund farmland preservation programs; and requiring farmland advisory committees to submit written annual reports to county commissions.

*Be it enacted by the Legislature of West Virginia:*

That article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended by adding thereto seven new sections, designated sections seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, all to read as follows:

**ARTICLE 24. PLANNING AND ZONING.**

**PART XX. FARMLAND PRESERVATION PROGRAMS.**

**§8-24-72. Legislative findings and purpose.**

1 The Legislature hereby finds and declares that agriculture  
2 is a unique "life support" industry and that a need exists  
3 to assist those agricultural areas of the state which are ex-  
4 perienicing the irreversible loss of agriculturally productive  
5 land. It is the purpose of this part of this article to provide  
6 counties with an opportunity to develop reasonable methods  
7 to safeguard the production of food and fiber and to con-  
8 serve agriculturally productive soils within the counties while  
9 preserving the worthwhile community values, institutions and  
10 landscapes which are inseparably associated with traditional  
11 farming.

**§8-24-73. County farmland preservation programs authorized;  
farmland advisory committees.**

1 The county commission of each county may adopt and  
2 implement a farmland preservation program within the county.  
3 The county commission of each county which decides to adopt  
4 and implement a farmland preservation program shall appoint  
5 a farmland advisory committee to act in an administrative  
6 and advisory capacity on behalf of the county commission in  
7 all matters concerning farmland preservation.

8 The farmland advisory committee shall be composed of six  
9 members, each serving without compensation for a term of  
10 two years, except the initial appointment of two voting com-  
11 mittee members shall be for a term of one year. Membership  
12 on the farmland advisory committee shall consist of the  
13 following: One county commissioner; one county planning  
14 commissioner; one farmer who is a county resident and a  
15 board member of a recognized local farm organization, such  
16 as a county farm bureau or a soil conservation district; two  
17 farmers who are county residents; and one county resident

18 who is not a farmer and who is not engaged in any agricul-  
19 turally related business. All members of the farmland ad-  
20 visory committee shall be voting members, except the county  
21 commissioner who shall serve in an advisory capacity as a  
22 nonvoting member.

23 The farmland advisory committee shall adopt bylaws pre-  
24 scribing committee officers, meeting dates, record-keeping  
25 procedures and other internal operational procedures. The  
26 member of the farmland advisory committee who is a county  
27 commissioner shall serve as temporary chairman of the  
28 committee until committee bylaws are adopted and until  
29 committee officers are selected as prescribed by those bylaws.  
30 The farmland advisory committee shall prepare a document  
31 proposing a farmland preservation program which is consistent  
32 with the county comprehensive plan.

**§8-24-74. Relationship to county comprehensive plan.**

1 The farmland preservation program adopted shall be con-  
2 sistent with any existing county comprehensive plan and shall  
3 be included in any revision of this plan or in the development  
4 of any new county comprehensive plan.

**§8-24-75. Content and requirements of farmland preservation programs.**

1 A farmland preservation program adopted shall include  
2 only those qualifying properties which are voluntarily offered  
3 into the program by the landowners thereof.

4 An adopted farmland preservation program must meet the  
5 following minimum requirements:

6 (a) The program shall be developed and administered by  
7 the farmland advisory committee, subject to the approval and  
8 direction of the county commission;

9 (b) The program shall be directed toward areas of the  
10 county containing agriculturally productive soil as determined  
11 by appropriate soil surveys;

12 (c) The program shall establish uniform standards and  
13 guidelines for the eligibility of properties for the program.

14 Such standards and guidelines shall take into consideration  
15 the following: Current and past uses of the property, existing  
16 property improvements, natural soil capabilities, drainage,  
17 slope, property tract size and shape, location of the property  
18 tract in relation to other potential agricultural property tracts,  
19 impending threat of conversion of the property to nonagricul-  
20 tural uses, property ownership and existing deed covenants and  
21 restrictions with respect to the property;

22 (d) The program shall provide that in order to be eligible for  
23 program participation that property must be actively farmed  
24 throughout the time period during which is it offered for pro-  
25 gram participation unless exemption from this requirement is  
26 granted by the county commission for good cause shown; and

27 (e) The program shall outline the various methods of  
28 farmland preservation which are available to prospective  
29 participating property owners and the procedures to be fol-  
30 lowed in applying for program consideration.

**§8-24-76. Methods of farmland preservation.**

1 The county commission, through its appointed farmland  
2 advisory committee, may negotiate with and compensate  
3 eligible property owners to ensure the preservation of pro-  
4 ductive farmland within the county. Methods of preserving  
5 farmland may include, but are not limited to the following:

6 (a) *Purchase of deed restriction.*—With the consent of a  
7 property owner, the county commission may purchase and  
8 place on record a deed restriction prohibiting the use of  
9 specified property for any purpose other than agriculture  
10 and related activities for any period of time. Deed restrictions  
11 so acquired shall apply only to those properties which qualify  
12 for consideration under the terms established by an adopted  
13 farmland preservation program;

14 (b) *Land purchase and resale.*—The county commission  
15 may purchase any property which qualifies for agricultural  
16 preservation under terms established by an adopted farmland  
17 preservation program. Property so purchased may be leased  
18 by the county commission for agricultural purposes or may  
19 be restricted to agricultural uses and sold to a buyer who

20 demonstrates the willingness and ability to farm the land.  
 21 Any property so purchased by the county commission must be  
 22 sold or placed under lease within two years after it is acquired  
 23 by the county commission. Any property so purchased by the  
 24 county commission and then sold must be sold subject to a  
 25 restriction limiting the use of the said property to agricul-  
 26 tural purposes for a period of not less than 10 years from the  
 27 date of sale. If the property is leased, the lessee shall pay  
 28 to the county commission, in addition to rent, an annual  
 29 fee set by the county commission. The amount of this annual  
 30 fee shall be commensurate with the amount of property taxes  
 31 which would be assessed in accordance with the provisions  
 32 of this code upon such property if the property were held by  
 33 a private landowner.

34 Revenues from the sale of properties restricted to agricul-  
 35 tural uses shall be used to recover the original purchase costs  
 36 of such properties and shall be returned to the applicable  
 37 funds which were used by the county commission to purchase  
 38 the property. Any profits resulting from the sale of property  
 39 restricted to agricultural uses may be deposited in a farmland  
 40 preservation fund.

**§8-24-77. Funding of farmland preservation programs.**

1 A county commission may use any funds not specifically  
 2 limited to other uses to fund and support a farmland preser-  
 3 vation program.

**§8-24-78. Annual farmland preservation report.**

1 Before the first day of August of each year, the farmland  
 2 advisory committee shall submit a written report to the  
 3 county commission reviewing the operation, accomplishments,  
 4 and financial status of the county's farmland preservation  
 5 program during the previous fiscal year. The report shall  
 6 include a scaled map showing the location and extent of  
 7 properties within the county which are preserved for agri-  
 8 cultural use. The report shall include a tabulation of the  
 9 agricultural productivity of the farmland within the farmland  
 10 preservation program and outline program objectives for the

11 next fiscal year. The report shall also include a budget sum-  
12 mary for the preceding fiscal year and for the next fiscal year.

13 A copy of this annual report shall be submitted to the  
14 county planning commission for its consideration with respect  
15 to county comprehensive plan revision.

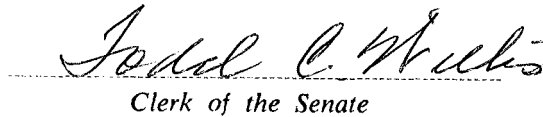
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

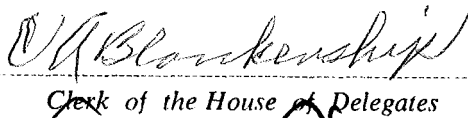
  
Chairman Senate Committee

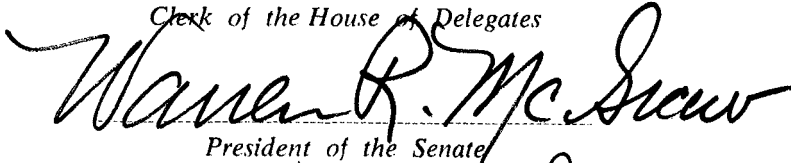
  
Chairman House Committee

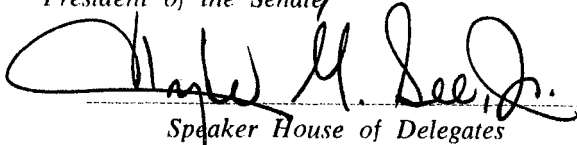
Originating in the House.

Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within is approved this the 3  
day of March, 1982.

  
Governor



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