WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1216

(By Mr. Albright & Mr. Steptoe)

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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.

The Legislature hereby finds and declares that agriculture is a unique "life support" industry and that a need exists to assist those agricultural areas of the state which are experiencing the irreversible loss of agriculturally productive land. It is the purpose of this part of this article to provide counties with an opportunity to develop reasonable methods to safeguard the production of food and fiber and to conserve agriculturally productive soils within the counties while preserving the worthwhile community values, institutions and landscapes which are inseparably associated with traditional farming.

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

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

The farmland advisory committee shall be composed of six members, each serving without compensation for a term of two years, except the initial appointment of two voting committee members shall be for a term of one year. Membership on the farmland advisory committee shall consist of the following: One county commissioner; one county planning commissioner; one farmer who is a county resident and a board member of a recognized local farm organization, such as a county farm bureau or a soil conservation district; two farmers who are county residents; and one county resident...
who is not a farmer and who is not engaged in any agriculturally related business. All members of the farmland advisory committee shall be voting members, except the county commissioner who shall serve in an advisory capacity as a nonvoting member.

The farmland advisory committee shall adopt bylaws prescribing committee officers, meeting dates, record-keeping procedures and other internal operational procedures. The member of the farmland advisory committee who is a county commissioner shall serve as temporary chairman of the committee until committee bylaws are adopted and until committee officers are selected as prescribed by those bylaws. The farmland advisory committee shall prepare a document proposing a farmland preservation program which is consistent with the county comprehensive plan.

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

The farmland preservation program adopted shall be consistent with any existing county comprehensive plan and shall be included in any revision of this plan or in the development of any new county comprehensive plan.

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

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

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

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

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

(c) The program shall establish uniform standards and guidelines for the eligibility of properties for the program.
Such standards and guidelines shall take into consideration the following: Current and past uses of the property, existing property improvements, natural soil capabilities, drainage, slope, property tract size and shape, location of the property tract in relation to other potential agricultural property tracts, impending threat of conversion of the property to nonagricultural uses, property ownership and existing deed covenants and restrictions with respect to the property;

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

(e) The program shall outline the various methods of farmland preservation which are available to prospective participating property owners and the procedures to be followed in applying for program consideration.

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

The county commission, through its appointed farmland advisory committee, may negotiate with and compensate eligible property owners to ensure the preservation of productive farmland within the county. Methods of preserving farmland may include, but are not limited to the following:

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

(b) Land purchase and resale.—The county commission may purchase any property which qualifies for agricultural preservation under terms established by an adopted farmland preservation program. Property so purchased may be leased by the county commission for agricultural purposes or may be restricted to agricultural uses and sold to a buyer who
demonstrates the willingness and ability to farm the land. Any property so purchased by the county commission must be sold or placed under lease within two years after it is acquired by the county commission. Any property so purchased by the county commission and then sold must be sold subject to a restriction limiting the use of the said property to agricultural purposes for a period of not less than 10 years from the date of sale. If the property is leased, the lessee shall pay to the county commission, in addition to rent, an annual fee set by the county commission. The amount of this annual fee shall be commensurate with the amount of property taxes which would be assessed in accordance with the provisions of this code upon such property if the property were held by a private landowner.

Revenues from the sale of properties restricted to agricultural uses shall be used to recover the original purchase costs of such properties and shall be returned to the applicable funds which were used by the county commission to purchase the property. Any profits resulting from the sale of property restricted to agricultural uses may be deposited in a farmland preservation fund.

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

A county commission may use any funds not specifically limited to other uses to fund and support a farmland preservation program.

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

Before the first day of August of each year, the farmland advisory committee shall submit a written report to the county commission reviewing the operation, accomplishments, and financial status of the county's farmland preservation program during the previous fiscal year. The report shall include a scaled map showing the location and extent of properties within the county which are preserved for agricultural use. The report shall include a tabulation of the agricultural productivity of the farmland within the farmland preservation program and outline program objectives for the
next fiscal year. The report shall also include a budget summary for the preceding fiscal year and for the next fiscal year.

A copy of this annual report shall be submitted to the county planning commission for its consideration with respect 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    approved    this the 3
day of  March, 1982.

Governor