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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

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ENROLLED

SENATE BILL NO. 481

(By Mr. Williams)

—•—
PASSED March 12 1983

In Effect ninety days from Passage



ENROLLED
Senate Bill No. 481
(BY MR. WILLIAMS)

[Passed March 12, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article five-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the procedure concerning water pollution control permits; transfer of permits; prior permits; extension of permit when reissuance application pending; discretionary issuance of permits upon reasonable terms and conditions; permits to have a fixed term; and denial of permits.

Be it enacted by the Legislature of West Virginia:

That section seven, article five-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5A. WATER POLLUTION CONTROL ACT.

§20-5A-7. Procedure concerning permits required under article; transfer of permits; prior permits.

- 1 (a) The chief or his duly authorized representatives
- 2 shall conduct such investigation as is deemed necessary
- 3 and proper in order to determine whether any such ap-
- 4 plication should be granted or denied. In making such
- 5 investigation and determination as to any application per-
- 6 taining solely to sewage, the chief shall consult with the
- 7 director of the division of sanitary engineering of the
- 8 state department of health, and in making such investi-
- 9 gation and determination as to any application pertaining
- 10 to any activity specified in subdivision (7), subsection
- 11 (b), section five of this article, the chief shall consult

12 with the director of the state geological and economic
13 survey and the deputy director of the oil and gas division
14 of the department of mines, and all such persons shall
15 cooperate with the chief and assist him in carrying out the
16 duties and responsibilities imposed upon him under the
17 provisions of this article and the rules and regulations of
18 the board; such cooperation shall include, but not be
19 limited to, a written recommendation approving or dis-
20 approving the granting of the permit and the reason or
21 reasons for such recommendation, which recommendation
22 and the reason or reasons therefor shall be submitted to
23 the chief within the specified time period prescribed by
24 rules and regulations of the board.

25 (b) The department's permit shall be issued upon such
26 reasonable terms and conditions as the chief may direct
27 if (1) the application, together with all supporting in-
28 formation and data and other evidence, establishes that
29 any and all discharges or releases, escapes, deposits and
30 disposition of treated or untreated sewage, industrial
31 wastes, or other wastes, or the effluent therefrom, result-
32 ing from the activity or activities for which the applica-
33 tion for a permit was made will not cause pollution
34 of the waters of this state or violate any effluent limita-
35 tions or any rules and regulations of the board: *Provided*,
36 That the chief may issue a permit whenever in his judg-
37 ment the water quality standards of the state may be
38 best protected by the institution of a program of phased
39 pollution abatement which under the terms of the permit
40 may temporarily allow a limited degree of pollution of
41 the waters of the state; and (2) in cases wherein it is
42 required, such applicant shall include the name and ad-
43 dress of the responsible agent as set forth in section
44 eight-b of this article.

45 (c) Each permit issued under this article shall have a
46 fixed term not to exceed five years: *Provided*, That when
47 the applicant, in accordance with agency rules, has
48 made a timely and complete application for permit re-
49 issuance, the permit term may be extended by the chief,
50 at his discretion, for a period not to exceed eighteen
51 months beyond its expiration date. Upon expiration of a

52 permit, a new permit may be issued by the chief upon
53 condition that the discharges or releases, escapes, deposits
54 and disposition thereunder meet or will meet all applica-
55 ble state and federal water quality standards, effluent
56 limitations and all other requirements of this article.

57 (d) An application for a permit incident to remedial
58 action in accordance with the provisions of section eleven
59 of this article shall be processed and decided as any other
60 application for a permit required under the provisions of
61 section five of this article.

62 (e) A complete application for any permit shall be
63 acted upon by the chief, and the department's permit de-
64 livered or mailed, or a copy of any order of the chief
65 denying any such application delivered or mailed to the
66 applicant by the chief, within a reasonable time period as
67 prescribed by rules and regulations of the board.

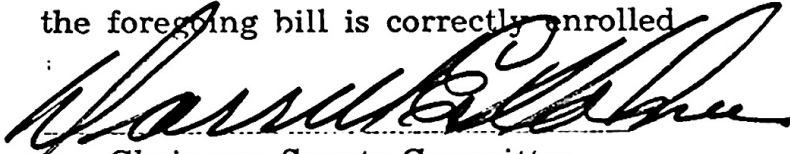
68 (f) When it is established that an application for a
69 permit should be denied, the chief shall make and enter
70 an order to that effect, which order shall specify the
71 reasons for such denial, and shall cause a copy of such
72 order to be served on the applicant by registered or cer-
73 tified mail. The chief shall also cause a notice to be served
74 with a copy of such order, which notice shall advise the
75 applicant of his right to appeal to the board by filing a
76 notice of appeal on the form prescribed by the board for
77 such purpose, with the board, in accordance with the
78 provisions of section fifteen of this article, within thirty
79 days after the date upon which the applicant received the
80 copy of such order. However, an applicant may alter the
81 plans and specifications for the proposed activity and
82 submit a new application for any such permit, in which
83 event the procedure hereinbefore outlined with respect
84 to an original application shall apply.

85 (g) Upon the sale of property which includes an activ-
86 ity for which the department's permit was granted, the
87 permit shall be transferable to the new owner, but the
88 transfer shall not become effective until the provisions of
89 section eight-b of this article are fully complied with, and
90 until such transfer is made in the records of the division
91 of water resources.

ok. Sec

92 (h) All permits for the discharge of sewage, industrial
93 wastes or other wastes into any waters of the state issued
94 by the water resources board prior to July one, one
95 thousand nine hundred sixty-four, and all permits here-
96 tofore issued under the provisions of this article, and
97 which have not been heretofore revoked, are subject to
98 review, revocation, suspension, modification and reissu-
99 ance in accordance with the terms and conditions of this
100 article and the rules and regulations promulgated there-
101 under. Any order of revocation, suspension or modifica-
102 tion made and entered pursuant to this subsection shall
103 be upon at least twenty days' notice and shall specify the
104 reasons for such revocation, suspension or modification
105 and the chief shall cause a copy of such order, together
106 with a copy of a notice of the right to appeal to the board
107 as provided for in section eight of this article, to be served
108 upon the permit holder as specified in said section eight.

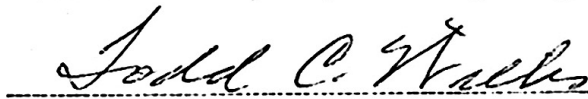
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled

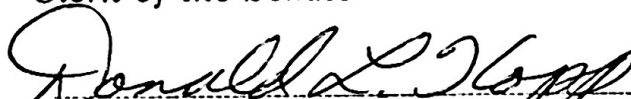

Chairman Senate Committee

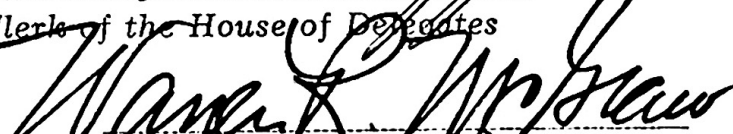

Chairman House Committee

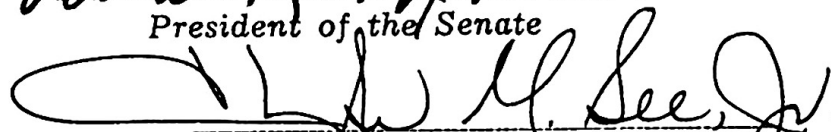
Originated in the Senate.

In 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 29
day of March, 1983.


Governor

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