

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

Committee Substitute for

SENATE BILL NO. 393

(By Senators *Tucker and Whitacre*)



PASSED March 8, 1986

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 393

(SENATORS TUCKER AND WHITACRE, *original sponsors*)

[Passed March 8, 1986; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article five, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the water resources board; continuing and reestablishing the water resources board; composition and organization; appointment, qualification, terms, oaths, removal, compensation and expenses of members; others to assist board and division; quorum; meetings; records; and hiring of secretary, scientific and clerical assistants.

Be it enacted by the Legislature of West Virginia:

That section three, article five, 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 5. WATER RESOURCES.

§20-5-3. Water resources board created; continuations; composition and organization; appointment, qualifications, terms, oaths, removal, compensation and expenses of members; others to assist board and division; vacancies; quorum; meetings; records.

- 1 (a) The state water resources board heretofore created
- 2 and established as successor to the state water commis-

3 sion and the state water resources commission is hereby
4 abolished. A new state water resources board is hereby
5 created and established as a public corporation. As such,
6 the board may sue and be sued, plead and be impleaded,
7 contract and be contracted with, and shall have and use
8 a common seal.

9 (b) After having conducted a performance audit
10 through its joint committee on government operations,
11 pursuant to section nine, article ten, chapter four of this
12 code, the Legislature hereby finds and declares that the
13 state water resources board should be continued and
14 reestablished. Accordingly, notwithstanding the provi-
15 sions of section four, article ten, chapter four of this code,
16 the state water resources board shall continue to exist
17 until the first day of July, one thousand nine hundred
18 ninety-two.

19 (c) The board shall be composed of five members who
20 shall be appointed by the governor with the advice and
21 consent of the Senate. Not more than three members of
22 the board shall be of the same political party. Individuals
23 appointed to the board shall be persons who by reasons
24 of previous training and experience are knowledgeable
25 in the husbandry of the state's water resources and with
26 at least one member with experience in industrial pollu-
27 tion control. No member of the board shall receive or,
28 during the two years next preceding the member of the
29 board's appointment, shall have received a "significant
30 portion of the member of the board's income" directly or
31 indirectly from a permit holder or an applicant for a
32 permit issued under any of the provisions of this chapter.
33 For the purposes of this subsection: (1) The term "sig-
34 nificant portion of the member of the board's income"
35 shall mean ten percent of gross personal income for a
36 calendar year, except that it shall mean fifty percent of
37 gross personal income for a calendar year if the recipient
38 is over sixty years of age and is receiving such portion
39 pursuant to retirement, a pension or similar arrange-
40 ment; (2) the term "income" includes retirement benefits,
41 consultant fees and stock dividends; (3) income is not
42 received "directly or indirectly" from "permit holders" or

43 "applicants for a permit" where it is derived from mutual-
44 fund payments or from other diversified investments
45 with respect to which the recipient does not know the
46 identity of the primary sources of income; and (4) the
47 terms "permit holders" and "applicants for a permit"
48 shall not include any university or college operated by
49 this state or political subdivision of this state.

50 (d) The members of the board shall be appointed for
51 overlapping terms of five years, except that the original
52 appointments shall be for terms of one, two, three, four
53 and five years, respectively. Any member whose term
54 expires may be reappointed by the governor. At its organ-
55 izational meeting, one member of the board shall be
56 selected chairman to serve as chairman at the will and
57 pleasure of the members of the board. Members of the
58 board shall, before performing any duty, take and sub-
59 scribe to the oath required by section five, article four
60 of the Constitution of West Virginia. Members of the
61 board may be removed only for the same causes and in
62 like manner as elective state officers. Any vacancy in the
63 office of a member of the board shall be filled by appoint-
64 ment by the governor for the unexpired term of the
65 member whose office shall be vacant. Each vacancy oc-
66 ccurring in the office of a member of the board shall be
67 filled by appointment within sixty days after such vacancy
68 occurs. Each member of the board shall be paid as com-
69 pensation for his work as such member from funds
70 appropriated for such purposes, seventy-five dollars per
71 day when actually engaged in the performance of work
72 as a board member. In addition to such compensation,
73 each member of the board shall be reimbursed for all
74 reasonable and necessary expenses actually incurred in
75 the performance of the board member's duties. The
76 director of the division of sanitary engineering of the
77 state department of health shall perform such services as
78 the board and the chief of the division of water resources
79 may request in connection with the discharge of their
80 duties, and the director shall be reimbursed, out of
81 moneys appropriated for such purposes, all sums which
82 the director necessarily shall expend in the performance

83 of such service. Nothing contained in this article or in
84 article five-a of this chapter, however, shall be construed
85 to limit or interfere with the power of the state depart-
86 ment of health to select, employ and direct the director of
87 the division of sanitary engineering of said department,
88 or any employee thereof who in any way may perform
89 any services for the board or the division of water
90 resources. The college of engineering at West Virginia
91 University and the schools and departments of engineer-
92 ing at other institutions of higher education operated by
93 this state, under the direction of the dean or other head
94 thereof, shall, insofar as they can, without interfering
95 with their usual and regular activities, aid and assist the
96 board and the division of water resources in the study
97 and research of questions connected with water pollution
98 and the control and reduction thereof in accordance with
99 the provisions of article five-a of this chapter. Such dean
100 or other head shall be reimbursed, out of moneys appro-
101 priated for such purposes, all sums which such dean
102 necessarily shall expend in the performance of any ser-
103 vices such dean may render to the board and the division
104 under the provisions hereof.

105 A majority of the board shall constitute a quorum for
106 the transaction of business. The board shall meet at such
107 times and places as it may determine and shall meet on
108 call of the chairman. It shall be the duty of the chairman
109 to call a meeting of the board on the written request of
110 three members thereof. The board shall keep an accurate
111 record of all of its proceedings and maintain such board
112 records and make certificates thereof or therefrom as may
113 be required by law. The board may employ a secretary
114 and necessary scientific and clerical assistance.

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

Bruce O. Williams

Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Leed C. Fuller

Clerk of the Senate

Donald L. Kapp
Clerk of the House of Delegates

Sanford
President of the Senate

Joseph P. Allright
Speaker House of Delegates

The within *approved* this the *26th*
day of *March*, 1986.

Arthur A. Massey, Jr.
Governor



PRESENTED TO THE

GOVERNOR

Date 3/21/80

Time 4:22 p.m.

RECEIVED

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SECRETARY OF STATE

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SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86