

No. 2224

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



# ENROLLED

HOUSE BILL No. 2224

(By ~~MR.~~ *Del. M. Burke + Stemple*)



Passed *March 22,* 1989

In Effect *Ninety Days From* Passage

C-641

1989 APR - 4 PM 1:49  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**  
**H. B. 2224**

(By DELEGATES M. BURKE AND STEMPLE)

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[Passed March 22, 1989; in effect ninety days from passage.]

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AN ACT to amend and reenact sections twenty-five and twenty-nine, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to including the State of Ohio in the Middle Atlantic Interstate Forest Fire Protection Compact.

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

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

PART III. MIDDLE ATLANTIC INTERSTATE FOREST  
FIRE PROTECTION COMPACT.

**§20-3-25. Governor's authority to execute.**

1     The governor of West Virginia, on behalf of this state,  
2     is hereby authorized to execute a compact in substan-  
3     tially the following form, with any one or more of the  
4     states of Delaware, Maryland, New Jersey, Ohio,  
5     Pennsylvania and Virginia, and the Legislature hereby  
6     signifies in advance its approval and ratification of such  
7     compact:

8                     MIDDLE ATLANTIC INTERSTATE FOREST  
9                     FIRE PROTECTION COMPACT

10                    **ARTICLE I.**

11 The purpose of this compact is to promote effective  
12 prevention and control of forest fires in the middle  
13 Atlantic region of the United States by the development  
14 of integrated forest fire plans, by the maintenance of  
15 adequate forest fire-fighting services by the member  
16 states, and by providing for mutual aid in fighting forest  
17 fires among the compacting states of the region and  
18 with states which are party to other regional forest fire  
19 protection compacts or agreements.

## 20 **ARTICLE II.**

21 This compact shall become operative immediately as  
22 to those states ratifying it whenever any two or more  
23 of the states of Delaware, Maryland, New Jersey, Ohio,  
24 Pennsylvania, Virginia and West Virginia which are  
25 contiguous have ratified it and Congress has given  
26 consent thereto.

## 27 **ARTICLE III.**

28 In each state, the state forester or officer holding the  
29 equivalent position who is responsible for forest fire  
30 control shall act as compact administrator for that state  
31 and shall consult with like officials of the other member  
32 states and shall implement cooperation between such  
33 states in forest fire prevention and control.

34 The compact administrators of the member states  
35 shall organize to coordinate the services of the member  
36 states and provide administrative integration in carry-  
37 ing out the purposes of this compact.

38 The compact administrators shall formulate and, in  
39 accordance with need, from time to time, revise a  
40 regional forest fire plan for the member states.

41 It shall be the duty of each member state to formulate  
42 and put in effect a forest fire plan for that state and take  
43 such measures as may be necessary to integrate such  
44 forest fire plan with the regional forest fire plan  
45 formulated by the compact administrators.

## 46 **ARTICLE IV.**

47 Whenever the state forest fire control agency of a  
48 member state requests aid from the state forest fire

49 control agency of any other member state in combating,  
50 controlling or preventing forest fires, it shall be the duty  
51 of the state forest fire control agency of that state to  
52 render all possible aid to the requesting agency which  
53 is consonant with the maintenance of protection at home.

54 **ARTICLE V.**

55 Whenever the forces of any member state are render-  
56 ing outside aid pursuant to the request of another  
57 member state under this compact, the employees of such  
58 state shall, under the direction of the officers of the state  
59 to which they are rendering aid, have the same powers  
60 (except the power of arrest), duties, rights, privileges  
61 and immunities as comparable employees of the state to  
62 which they are rendering aid.

63 No member state or its officers or employees render-  
64 ing outside aid pursuant to this compact shall be liable  
65 on account of any act or omission on the part of such  
66 forces while so engaged, or on account of the mainte-  
67 nance or use of any equipment or supplies in connection  
68 therewith.

69 All liability, except as otherwise provided hereinafter,  
70 that may arise either under the laws of the requesting  
71 state or under the laws of the aiding state or under the  
72 laws of a third state on account of or in connection with  
73 a request for aid, shall be assumed and borne by the  
74 requesting state.

75 Any member state rendering outside aid pursuant to  
76 this compact shall be reimbursed by the member state  
77 receiving such aid for any loss or damage to, or expense  
78 incurred in the operation of any equipment answering  
79 a request for aid, and for the cost of all materials,  
80 transportation, wages, salaries, and maintenance of  
81 employees and equipment incurred in connection with  
82 such request: *Provided*, That nothing herein contained  
83 shall prevent any assisting member state from assuming  
84 such loss, damage, expense or other costs or from  
85 loaning such equipment or from donating such services  
86 to the receiving member state without charge or cost.

87 Each member state shall provide for the payment of

88 compensation and death benefits to injured employees  
89 and the representatives of deceased employees in case  
90 employees sustain injuries or are killed while rendering  
91 outside aid pursuant to this compact, in the same  
92 manner and on the same terms as if the injury or death  
93 were sustained within such state: *Provided*, That  
94 nothing herein shall be construed as relieving any  
95 person from liability for his own negligent act or  
96 omission, or as imposing liability for such negligent act  
97 or omission upon any state.

98 For the purposes of this compact the term "employee"  
99 shall include any volunteer or auxiliary legally included  
100 within the forest fire-fighting forces of the aiding state  
101 under the laws thereof.

102 The compact administrators shall formulate proce-  
103 dures for claims and reimbursement under the provi-  
104 sions of this article, in accordance with the laws of the  
105 member states.

106

#### ARTICLE VI.

107 Nothing in this compact shall be construed to auth-  
108 orize or permit any member state to curtail or diminish  
109 its forest fire-fighting forces, equipment, services or  
110 facilities, and it shall be the duty and responsibility of  
111 each member state to maintain adequate forest fire-  
112 fighting forces and equipment to meet demands for  
113 forest fire protection within its borders in the same  
114 manner and to the same extent as if this compact were  
115 not operative.

116 Nothing in this compact shall be construed to limit or  
117 restrict the powers of any state ratifying the same to  
118 provide for the prevention, control and extinguishment  
119 of forest fires, or to prohibit the enactment or enforce-  
120 ment of state laws, rules or regulations intended to aid  
121 in such prevention, control and extinguishment in such  
122 state.

123 Nothing in this compact shall be construed to affect  
124 any existing or future cooperative relationship or  
125 arrangement between the United States forest service  
126 and a member state or states.

127

**ARTICLE VII.**

128 The compact administrators may request the United  
 129 States forest service to act as the primary research and  
 130 coordinating agency of the middle Atlantic interstate  
 131 forest fire protection compact in cooperation with the  
 132 appropriate agencies in each state, and the United  
 133 States forest service may accept the initial responsibility  
 134 in preparing and presenting to the compact administra-  
 135 tors its recommendations with respect to the regional  
 136 fire plan. Representatives of the United States forest  
 137 service may attend meetings of the compact  
 138 administrators.

139

**ARTICLE VIII.**

140 The provisions of articles four and five of this compact  
 141 which relate to mutual aid in combating, controlling or  
 142 preventing forest fires shall be operative as between any  
 143 state party to this compact and any other state which  
 144 is party to a regional forest fire protection compact in  
 145 another region: *Provided*, That the Legislature of such  
 146 other state shall have given its assent to such mutual aid  
 147 provisions of this compact.

148

**ARTICLE IX.**

149 This compact shall continue in force and remain  
 150 binding on each state ratifying it until the Legislature  
 151 or the governor of such state takes action to withdraw  
 152 therefrom. Such action shall not be effective until six  
 153 months after notice thereof has been sent by the chief  
 154 executive of the state desiring to withdraw to the chief  
 155 executive of all states then parties to the compact.

**§20-3-29. Otther powers supplementary**

1 Any powers herein granted to the state forester shall  
 2 be regarded as in aid of and supplemental to, and in no  
 3 case a limitation upon, any of the powers vested in said  
 4 director by other laws of the State of West Virginia or  
 5 by the laws of the State of Delaware, Maryland, New  
 6 Jersey, Ohio, Pennsylvania and Virginia, or by the  
 7 Congress or the terms of said compact.

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

*Frederick L. Parker*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Jeff C. Neale*  
Clerk of the Senate

*Donald T. Hagg*  
Clerk of the House of Delegates

*For A. Turner*  
President of the Senate

*Robert C. Rahn*  
Speaker of the House of Delegates

The within *is approved* this the *3/8*  
day of *March* 1989.

*Gaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date

2/27

Time

5:09