

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

Com. Sub. for
HOUSE BILL No. 4502

(By ~~the~~ Delegates Mezzy and Kelly)

— ● —

Passed March 10, 1990

In Effect from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4502
(By DELEGATES MEZZATESTA AND KELLY)

[Passed March 10, 1990; in effect from passage.]

AN ACT to repeal section nine, article twelve-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections three, five, six and eight of said article; and to further amend said article twelve-a by adding thereto a new section, designated section six-a, all relating to the farm management commission; deleting penalty; continuing commission to allow for completion of performance audit; powers and duties of commission; management plan; requiring the purchase and sale of food produced at institutional farms at prevailing wholesale prices; transfer of certain lands to the public land corporation to be sold; special revenue account; employees.

Be it enacted by the Legislature of West Virginia:

That section nine, article twelve-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections three, five, six and eight of said article be amended and reenacted; and that said article twelve-a be further amended by adding thereto a new section, designated section six-a, all to read as follows:

CHAPTER 19. AGRICULTURE.

ARTICLE 12A. FARM MANAGEMENT COMMISSION.

§19-12A-3. Farm management commission continued; composition; chairman; quorum; meetings; vacancies.

1 The farm management commission heretofore created
2 is hereby continued and shall be composed of three
3 members who are the commissioner of agriculture, who
4 shall be chairman, the secretary of the department of
5 administration, and the dean of the West Virginia
6 University College of Agriculture and Forestry. No
7 business may be transacted by the commission in the
8 absence of a quorum which consists of two members
9 including the chairman. The farm management com-
10 mission shall hold meetings at least once every two
11 months, and on call of the chairman.

12 If a vacancy occurs on the commission, the farm
13 management director, as provided in this article, shall
14 act as a member of the commission until the vacancy
15 is filled.

16 If a vacancy occurs in the office of the commissioner
17 of agriculture, the members of the commission and the
18 farm management director shall select, from among
19 them, a chairman to serve until a commissioner of
20 agriculture is appointed or elected and qualified.

21 Pursuant to the provisions of section four, article ten,
22 chapter four of this code, the farm management
23 commission shall continue to exist until the first day of
24 July, one thousand nine hundred ninety-two, to allow for
25 the completion of an audit by the joint committee on
26 government operations.

§19-12A-5. Powers, duties and responsibilities of commission.

1 (a) On or before the first day of July, one thousand
2 nine hundred ninety, the commission shall meet and
3 confer with respect to the development of a management
4 plan to determine the optimum use or disposition of all
5 institutional farms, at which time the farm management
6 director shall provide the commission with a complete
7 inventory of all institutional farms, and such informa-
8 tion relating to easements, mineral rights, appurtenan-

9 ces, farm equipment, agricultural products, livestock,
10 inventories and farm facilities as may be necessary to
11 develop such management plan. The commission shall
12 complete and provide to the governor a management
13 plan, which plan shall set forth the objectives of the
14 commission with respect to institutional farms, the
15 criteria by which the commission shall determine the
16 optimum use or disposition of such property, and
17 determinations as to whether each institutional farm
18 shall be used in production, sold, or leased, in whole or
19 in part. Prior to the adoption of any plan, the commis-
20 sion shall consult with the secretaries of the various
21 departments of state government and shall request from
22 such secretaries suggestions for land use and resource
23 development on farm commission lands. On or before
24 the first day of December, one thousand nine hundred
25 ninety, such management plan shall be presented to the
26 Legislature, by providing a copy to the president of the
27 senate and the speaker of the house. The commission
28 may confer with any other agency or individual in
29 implementing and adjusting its management plan. The
30 management plan established pursuant to this subsec-
31 tion may be amended, from time to time, as may be
32 necessary.

33 (b) The commission shall manage its institutional
34 farms, equipment and other property in order to most
35 efficiently produce food products for state institutions
36 and shall implement the intent of the Legislature as set
37 forth by this article. From the total amount of food, milk
38 and other commodities produced on institutional farms,
39 the commission shall sell, at prevailing wholesale prices,
40 and each of the institutions under the control of the
41 department of health and the department of corrections
42 shall purchase, a proportionate amount of these products
43 based on the dietary needs of each institution.

44 (c) If requested by the commissioner of corrections,
45 the commission may authorize the department of
46 corrections to operate a farm or other enterprise using
47 inmates as labor on such lands. The commissioner of
48 corrections shall be responsible for the selection,
49 direction and supervision of the inmates and shall assign

50 the work to be performed by inmates.

51 (d) The commission is hereby authorized and empo-
52 wered to:

53 (1) Lease to public or private parties, for purposes
54 including agricultural production or experimentation,
55 public necessity, or other purposes permitted by the
56 management plan, any land, easements, equipment, or
57 other property, except that property may not be leased
58 for any use in any manner that would render the land
59 toxic for agricultural use, nor may toxic or hazardous
60 materials as identified by the commissioner of agricul-
61 ture be used or stored upon such property unless all
62 applicable state and federal permits necessary are
63 obtained. Any lease for an annual consideration of one
64 thousand dollars or more shall be by sealed bid auction
65 and the commission shall give notice of such auction by
66 publication thereof as a Class II-0 legal advertisement
67 in compliance with the provisions of article three,
68 chapter fifty-nine of this code, and the publication area
69 for such publication shall be the county in which the
70 property to be leased is located;

71 (2) Transfer to the public land corporation land
72 designated in its management plan as land to be
73 disposed of, which land shall be sold, exchanged or
74 otherwise transferred pursuant to sections four and five,
75 article one-a, chapter twenty of this code: *Provided*, That
76 the net proceeds of the sale of farm commission lands
77 shall be deposited in the general revenue fund of the
78 state: *Provided however*, That no sale may be concluded
79 until on or after the fifteenth day of March, one
80 thousand nine hundred ninety-one, except with respect
81 to any properties located at institutions closed on or
82 before the effective date of this section.

83 (3) Develop lands to which it has title for the public
84 use including forestation, recreation, wildlife, stock
85 grazing, agricultural production, rehabilitation and/or
86 other conservation activities and may contract or lease
87 for the proper development of timber, oil, gas or mineral
88 resources, including coal by underground mining or by
89 surface mining where reclamation as required by

90 specifications of the department of energy will increase
91 the beneficial use of such property. Any such contract
92 or lease shall be by sealed bid auction as provided for
93 in subparagraph (1) above;

94 (4) Exercise all other powers and duties necessary to
95 effectuate the purposes of this article.

96 (e) Notwithstanding the provisions of subdivision (d)
97 herein, no timberland may be leased, sold, exchanged or
98 otherwise disposed of, unless the division of forestry of
99 the department of commerce, labor and environmental
100 resources certifies that there is no commercially salable
101 timber on the timberland, an inventory is provided, an
102 appraisal of the timber is provided, and the sale, lease,
103 exchange or other disposition is accomplished by the
104 sealed bid auction procedure provided above in subpa-
105 ragraphs (1) or (2), as applicable.

106 (f) The commission shall promulgate, pursuant to
107 chapter twenty-nine-a of this code, rules and regulations
108 relating to the powers and duties of the commission as
109 enumerated in this section.

**§19-12A-6. Appointment of farm management director;
qualifications; powers and duties.**

1 The commission shall appoint a farm management
2 director who, in addition to qualifications established by
3 the commission, shall have owned, operated or managed
4 a farm for at least five years within ten years imme-
5 diately prior to being appointed. The farm management
6 director is the chief executive officer of the commission
7 and is responsible for conducting the operations of the
8 farms. The director shall prepare an annual report of
9 the farming operations, including a listing of all receipts
10 and expenditures and shall present it to the commission
11 and the Legislature at the end of each fiscal year.

12 As authorized or directed by the commission, the
13 director shall also:

14 (1) Prepare the annual budget request for the oper-
15 ation of the institutional farms and submit it to the
16 commission for approval and submission to the secretary
17 of the department of administration.

18 (2) Receive and approve all requisitions for farm
19 supplies and equipment.

20 (3) Supervise the operation of all canneries and
21 determine what foods are to be canned.

22 (4) Recruit and approve assistant farm managers to
23 supervise each institutional farm.

24 (5) Implement all orders of the commission.

25 (6) Supervise all other employees of the commission.

26 (7) Transfer farm supplies, farm equipment, farm
27 facilities, food stuffs and produce from one institutional
28 farm to another to promote efficiency and improve farm
29 management.

30 With the approval of the commission, the farm
31 management director may rent or lease additional land
32 for farm use.

33 By the thirtieth day of September each year, each
34 institution under the control of the department of health
35 and the department of corrections shall present to the
36 farm management director a purchase order for its food
37 requirements during the next fiscal year as determined
38 by the institution. If, during the year, an institution
39 finds that it needs other or additional food, milk, or
40 commodities not included in its purchase order for the
41 year, the institutional superintendent may forward a
42 supplemental request to the farm management director,
43 which order may be filled depending on availability. If
44 institutional farms produce more food, milk and other
45 commodities than can be sold to the institutions, the
46 farm management director may sell the surplus to other
47 state agencies willing to purchase. If any surplus
48 remains after sales to other state agencies, the director
49 may sell the surplus on the open market, or at the
50 discretion of the director, turn over any surplus food
51 products to appropriate public, nonprofit agencies upon
52 application.

53 On the first day of July, one thousand nine hundred
54 ninety, the department of health and the department of
55 corrections shall each transfer, by interdepartmental

56 transfer, the sum of two hundred thousand dollars to the
57 farm management commission to be credited toward
58 their purchase of food products from the commission.
59 Such credits shall be treated as advance payments for
60 food products purchased by these departments pursuant
61 to this section and such departments shall not be
62 required to make actual payments for food products
63 until such credits have been completely expended.

§19-12A-6a. Special revenue account.

1 All funds collected by the commission by virtue of this
2 article, whether from the sale of food, the disposition of
3 assets other than land, the lease of land or minerals, or
4 any other source, shall be paid into a special revenue
5 account to be used for the purposes of this article:
6 *Provided*, That when the aggregate of said funds so
7 collected and deposited in the special revenue account
8 in any fiscal year total one million five hundred
9 thousand dollars, the commission shall deposit any funds
10 collected in excess thereof in the general revenue fund
11 of the state.

§19-12A-8. Effect of management plan on employees.

1 Nothing contained in section five of this article shall
2 be construed to abridge the rights of farm employees of
3 the commission within the classified service of the state
4 to the procedures and protections of sections ten and ten-
5 a, article six, chapter twenty-nine of this code, subject
6 to the limitations set forth in subsection (d), section two,
7 article two, chapter five-f of this code.

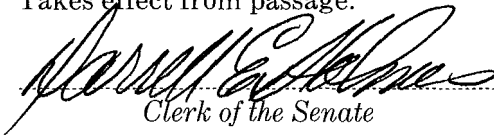
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee


Chairman House Committee

Originating in the House.

Takes effect from passage.

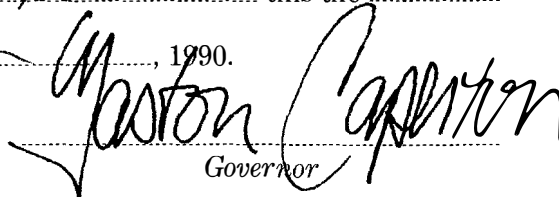

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 30th
day of March, 1990.


Governor

PRESENTED TO THE

GOVERNOR

Date

3/27/90

Time

4:51 pm

RECEIVED

1990 MAR 30 17 5:03

OFFICE OF THE GOVERNOR
DIVISION OF GENERAL SERVICES