WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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ENROLLED

Com. Sub. for

HOUSE BILL No. 4502

(By Delegate Mezzatesta & Kelly)

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article twelve-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections three, five, six and eight of said article be amended and reenacted; and that said article twelve-a be further amended by adding thereto a new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

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

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

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

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


(a) On or before the first day of July, one thousand nine hundred ninety, the commission shall meet and confer with respect to the development of a management plan to determine the optimum use or disposition of all institutional farms, at which time the farm management director shall provide the commission with a complete inventory of all institutional farms, and such information relating to easements, mineral rights, appurtenan-
ces, farm equipment, agricultural products, livestock, inventories and farm facilities as may be necessary to develop such management plan. The commission shall complete and provide to the governor a management plan, which plan shall set forth the objectives of the commission with respect to institutional farms, the criteria by which the commission shall determine the optimum use or disposition of such property, and determinations as to whether each institutional farm shall be used in production, sold, or leased, in whole or in part. Prior to the adoption of any plan, the commission shall consult with the secretaries of the various departments of state government and shall request from such secretaries suggestions for land use and resource development on farm commission lands. On or before the first day of December, one thousand nine hundred ninety, such management plan shall be presented to the Legislature, by providing a copy to the president of the senate and the speaker of the house. The commission may confer with any other agency or individual in implementing and adjusting its management plan. The management plan established pursuant to this subsection may be amended, from time to time, as may be necessary.

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

(c) If requested by the commissioner of corrections, the commission may authorize the department of corrections to operate a farm or other enterprise using inmates as labor on such lands. The commissioner of corrections shall be responsible for the selection, direction and supervision of the inmates and shall assign
(d) The commission is hereby authorized and empow-
ered to:

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

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

(3) Develop lands to which it has title for the public
use including forestation, recreation, wildlife, stock
grazing, agricultural production, rehabilitation and/or
other conservation activities and may contract or lease
for the proper development of timber, oil, gas or mineral
resources, including coal by underground mining or by
surface mining where reclamation as required by
specifications of the department of energy will increase the beneficial use of such property. Any such contract or lease shall be by sealed bid auction as provided for in subparagraph (1) above;

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

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

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

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

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

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

(1) Prepare the annual budget request for the operation of the institutional farms and submit it to the commission for approval and submission to the secretary of the department of administration.
(2) Receive and approve all requisitions for farm supplies and equipment.

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

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

(5) Implement all orders of the commission.

(6) Supervise all other employees of the commission.

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

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

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

On the first day of July, one thousand nine hundred ninety, the department of health and the department of corrections shall each transfer, by interdepartmental
transfer, the sum of two hundred thousand dollars to the
farm management commission to be credited toward
their purchase of food products from the commission.
Such credits shall be treated as advance payments for
food products purchased by these departments pursuant
to this section and such departments shall not be
required to make actual payments for food products
until such credits have been completely expended.

§19-12A-6a. Special revenue account.

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

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

Nothing contained in section five of this article shall
be construed to abridge the rights of farm employees of
the commission within the classified service of the state
to the procedures and protections of sections ten and ten-
a, article six, chapter twenty-nine of this code, subject
to the limitations set forth in subsection (d), section two,
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 , 1990.

Governor