WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1992

ENROLLED
SENATE BILL NO. 56

(By Senators Spears, Binekemack, and Boley)

PASSED March 5, 1992
In Effect 90 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 continuation of the state water resources board; and correcting agency references to reflect current administrative structure.

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; continuation; 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 and established as successor to the state water commission and the state water resources commission is hereby abolished. A new state water resources board is hereby created and established as a public corporation. As such, the board may sue and be sued,
plead and be impleaded, contract and be contracted with, and shall have and use a common seal.

(b) Pursuant to the provisions of section four, article ten, chapter four of this code, the state water resources board shall continue to exist until the first day of July, one thousand nine hundred ninety-three, to allow for the completion of an audit by the joint committee on government operations.

(c) The board shall be composed of five members who shall be appointed by the governor with the advice and consent of the Senate. Not more than three members of the board shall be of the same political party. Individuals appointed to the board shall be persons who by reasons of previous training and experience are knowledgeable in the husbandry of the state's water resources and with at least one member with experience in industrial pollution control. No member of the board shall receive or, during the two years next preceding the member of the board's appointment, shall have received a "significant portion of the member of the board's income" directly or indirectly from a permit holder or an applicant for a permit issued under any of the provisions of this chapter. For the purposes of this subsection: (1) The term "significant portion of the member of the board's income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age and is receiving such portion pursuant to retirement, a pension or similar arrangement; (2) the term "income" includes retirement benefits, consultant fees and stock dividends; (3) income is not received "directly or indirectly" from "permit holders" or "applicants for a permit" where it is derived from mutual-fund payments or from other diversified investments with respect to which the recipient does not know the identity of the primary sources of income; and (4) the terms "permit holders" and "applicants for a permit" shall not include any university or college operated by this state or political
subdivision of this state.

(d) The members of the board shall be appointed for overlapping terms of five years, except that the original appointments shall be for terms of one, two, three, four and five years, respectively. Any member whose term expires may be reappointed by the governor. At its organizational meeting, one member of the board shall be selected chairman to serve as chairman at the will and pleasure of the members of the board. Members of the board shall, before performing any duty, take and subscribe to the oath required by section five, article four of the constitution of West Virginia. Members of the board may be removed only for the same causes and in like manner as elective state officers. Any vacancy in the office of a member of the board shall be filled by appointment by the governor for the unexpired term of the member whose office shall be vacant. Each vacancy occurring in the office of a member of the board shall be filled by appointment within sixty days after such vacancy occurs. Each member of the board shall be paid as compensation for his work as such member from funds appropriated for such purposes, seventy-five dollars per day when actually engaged in the performance of work as a board member. In addition to such compensation, each member of the board shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the board member’s duties. The director of the public health sanitation division within the state department of health and human resources, formerly known as the division of sanitary engineering of the state department of health, shall perform such services as the board and the chief of the division of water resources may request in connection with the discharge of their duties, and the director shall be reimbursed, out of moneys appropriated for such purposes, all sums which the director necessarily shall expend in the performance of such service. Nothing contained in this article or in article five-a of this chapter, however, shall be construed to limit or interfere with the power of the state department of health and human resourc-
ces to select, employ and direct the director of the
public health sanitation division of said department, or
any employee thereof who in any way may perform
any services for the board or the division of water
resources. The college of engineering at West Virginia
university and the schools and departments of engi-
neering at other institutions of higher education
operated by this state, under the direction of the dean
or other head thereof, shall, insofar as they can,
without interfering with their usual and regular
activities, aid and assist the board and the division of
water resources in the study and research of questions
connected with water pollution and the control and
reduction thereof in accordance with the provisions of
article five-a of this chapter. Such dean or other head
shall be reimbursed, out of moneys appropriated for
such purposes, all sums which such dean necessarily
shall expend in the performance of any services such
dean may render to the board and the division under
the provisions hereof.

A majority of the board shall constitute a quorum
for the transaction of business. The board shall meet
at such times and places as it may determine and shall
meet on call of the chairman. It shall be the duty of
the chairman to call a meeting of the board on the
written request of three members thereof. The board
shall keep an accurate record of all of its proceedings
and maintain such board records and make certificates
thereof or therefrom as may be required by law. The
board may employ a secretary and necessary scientific
and clerical assistance.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Homer Beck
Chairman Senate Committee

Ernest S. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Donald A. Key
Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 17th day of March, 1992.

Governor