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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



ENROLLED

SENATE BILL NO. 56

(By Senators Spears, Brackemich and Boley)



PASSED March 5, 1992

In Effect 90 days from Passage

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Senate Bill No. 56

(BY SENATORS SPEARS, BRACKENRICH AND BOLEY)

[Passed March 5, 1992; 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 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
2 created and established as successor to the state water
3 commission and the state water resources commission
4 is hereby abolished. A new state water resources
5 board is hereby created and established as a public
6 corporation. As such, the board may sue and be sued,

7 plead and be impleaded, contract and be contracted
8 with, and shall have and use a common seal.

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

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

48 subdivision of this state.

49 (d) The members of the board shall be appointed for
50 overlapping terms of five years, except that the
51 original appointments shall be for terms of one, two,
52 three, four and five years, respectively. Any member
53 whose term expires may be reappointed by the gover-
54 nor. At its organizational meeting, one member of the
55 board shall be selected chairman to serve as chairman
56 at the will and pleasure of the members of the board.
57 Members of the board shall, before performing any
58 duty, take and subscribe to the oath required by
59 section five, article four of the constitution of West
60 Virginia. Members of the board may be removed only
61 for the same causes and in like manner as elective
62 state officers. Any vacancy in the office of a member
63 of the board shall be filled by appointment by the
64 governor for the unexpired term of the member
65 whose office shall be vacant. Each vacancy occurring
66 in the office of a member of the board shall be filled
67 by appointment within sixty days after such vacancy
68 occurs. Each member of the board shall be paid as
69 compensation for his work as such member from
70 funds appropriated for such purposes, seventy-five
71 dollars per day when actually engaged in the perfor-
72 mance of work as a board member. In addition to such
73 compensation, each member of the board shall be
74 reimbursed for all reasonable and necessary expenses
75 actually incurred in the performance of the board
76 member's duties. The director of the public health
77 sanitation division within the state department of
78 health and human resources, formerly known as the
79 division of sanitary engineering of the state depart-
80 ment of health, shall perform such services as the
81 board and the chief of the division of water resources
82 may request in connection with the discharge of their
83 duties, and the director shall be reimbursed, out of
84 moneys appropriated for such purposes, all sums
85 which the director necessarily shall expend in the
86 performance of such service. Nothing contained in this
87 article or in article five-a of this chapter, however,
88 shall be construed to limit or interfere with the power
89 of the state department of health and human resour-

90 ces to select, employ and direct the director of the
91 public health sanitation division of said department, or
92 any employee thereof who in any way may perform
93 any services for the board or the division of water
94 resources. The college of engineering at West Virginia
95 university and the schools and departments of engi-
96 neering at other institutions of higher education
97 operated by this state, under the direction of the dean
98 or other head thereof, shall, insofar as they can,
99 without interfering with their usual and regular
100 activities, aid and assist the board and the division of
101 water resources in the study and research of questions
102 connected with water pollution and the control and
103 reduction thereof in accordance with the provisions of
104 article five-a of this chapter. Such dean or other head
105 shall be reimbursed, out of moneys appropriated for
106 such purposes, all sums which such dean necessarily
107 shall expend in the performance of any services such
108 dean may render to the board and the division under
109 the provisions hereof.

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

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

Homer Heck
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

David Williams
.....
Clerk of the Senate

Donald G. Kerr
.....
Clerk of the House of Delegates

Neil Burdette
.....
President of the Senate

Butt Cell
.....
Speaker House of Delegates

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

Gaston Caperton
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/11/92

Time 3:37pm