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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

HOUSE BILL No. 2015

(By Delegates Martin and Wallace)



Passed April 7, 1993

In Effect July 1, 1993 Passage

ENROLLED
H. B. 2015

(By DELEGATES MARTIN AND WALLACE)

[Passed April 7, 1993; in effect July 1, 1993.]

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.

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
2 and established as successor to the state water commis-
3 sion and the state water resources commission is hereby
4 abolished. A new state water resources board is hereby
5 created and established as a public corporation. As such,
6 the board may sue and be sued, plead and be impleaded,
7 contract and be contracted with, and shall have and use
8 a common seal.

9 (b) Pursuant to the provisions of section four, article
10 ten, chapter four of this code, the state water resources

11 board shall continue to exist until the first day of July,
12 one thousand nine hundred ninety-four, to allow for the
13 completion of an audit by the joint committee on
14 government operations.

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

47 (d) The members of the board shall be appointed for
48 overlapping terms of five years, except that the original
49 appointments shall be for terms of one, two, three, four
50 and five years, respectively. Any member whose term
51 expires may be reappointed by the governor. At its

52 organizational meeting, one member of the board shall
53 be selected chairman to serve as chairman at the will
54 and pleasure of the members of the board. Members of
55 the board shall, before performing any duty, take and
56 subscribe to the oath required by section five, article
57 four of the constitution of West Virginia. Members of
58 the board may be removed only for the same causes and
59 in like manner as elective state officers. Any vacancy in
60 the office of a member of the board shall be filled by
61 appointment by the governor for the unexpired term of
62 the member whose office shall be vacant. Each vacancy
63 occurring in the office of a member of the board shall
64 be filled by appointment within sixty days after such
65 vacancy occurs. Each member of the board shall be paid
66 as compensation for his work as such member from
67 funds appropriated for such purposes, seventy-five
68 dollars per day when actually engaged in the perfor-
69 mance of work as a board member. In addition to such
70 compensation, each member of the board shall be
71 reimbursed for all reasonable and necessary expenses
72 actually incurred in the performance of the board
73 member's duties. The director of the public health
74 sanitation division within the state department of health
75 and human resources, formerly known as the division of
76 sanitary engineering of the state department of health,
77 shall perform such services as the board and the chief
78 of the division of water resources may request in
79 connection with the discharge of their duties, and the
80 director shall be reimbursed, out of moneys approp-
81 riated for such purposes, all sums which the director
82 necessarily shall expend in the performance of such
83 service. Nothing contained in this article or in article
84 five-a of this chapter, however, shall be construed to
85 limit or interfere with the power of the state department
86 of health and human resources to select, employ and
87 direct the director of the public health sanitation
88 division of said department, or any employee thereof
89 who in any way may perform any services for the board
90 or the division of water resources. The college of
91 engineering at West Virginia University and the schools
92 and departments of engineering at other institutions of
93 higher education operated by this state, under the

94 direction of the dean or other head thereof, shall, insofar
95 as they can, without interfering with their usual and
96 regular activities, aid and assist the board and the
97 division of water resources in the study and research of
98 questions connected with water pollution and the control
99 and reduction thereof in accordance with the provisions
100 of article five-a of this chapter. Such dean or other head
101 shall be reimbursed, out of moneys appropriated for
102 such purposes, all sums which such dean necessarily
103 shall expend in the performance of any services such
104 dean may render to the board and the division under
105 the provisions hereof.

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

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

Tom Harley Jr.
.....
Chairman Senate Committee

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

Originating in the House.

Takes effect July 1, 1993.

Harold Edelman
.....
Clerk of the Senate

David Z. Kopp
.....
Clerk of the House of Delegates

Neil Rudenstam
.....
President of the Senate

B. J. C. [Signature]
.....
Speaker of the House of Delegates

The within is approved this the *19th*
day of *April*, 1993.

Justin Clapendon
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/14/93

Time 11:00 am