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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. 4009.....

(By Delegate Mr. Speaker Mr. Chambers, &
Del. Martin, Evans & Nicol)



Passed March 4, 1994

In Effect From Passage

ENROLLED
H. B. 4009

(By MR. SPEAKER, MR. CHAMBERS, AND
DELEGATES MARTIN, EVANS AND NICOL)

[Passed March 4, 1994; in effect from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-j, relating to the Jennings Randolph Lake Project Compact; authorizing the governor to execute a certain Jennings Randolph Lake Project Compact between the state of West Virginia and the state of Maryland with concurrence by the United States army corps of engineers; stating certain purposes and goals related to establishing the compact; establishing through the compact certain responsibilities of the state of West Virginia, the state of Maryland and the corps of engineers, respectively, with respect to the Jennings Randolph Lake Project; providing through the compact for certain coordination between the states and the corps of engineers in planning, operation and maintenance of the Jennings Randolph Lake Project so as to provide for public recreation and for protection and management of fish and wildlife resources; establishing through the compact that the states and the corps of engineers will have certain concurrent jurisdiction over the lands and waters of the Jennings Randolph Lake Project for enforcing certain natural resources and boating laws; establishing the effective date of the compact following certain other ratifications and approvals; providing certain procedures for amending the compact; providing for termination of the compact under certain circum-

stances; and generally relating to and authorizing the governor to execute the Jennings Randolph Lake Project Compact.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-j, to read as follows:

ARTICLE 1J. JENNINGS RANDOLPH LAKE PROJECT COMPACT.

§29-1J-1. Jennings Randolph Lake Project Compact authorized.

1 The governor is hereby authorized and directed to
2 execute a compact on behalf of the state of West
3 Virginia with the state of Maryland, with participation
4 through concurrence by the United States army corps
5 of engineers legally joining in the form substantially as
6 follows:

7 **JENNINGS RANDOLPH LAKE**
8 **PROJECT COMPACT**

9 **PREAMBLE**

10 **WHEREAS,** The signatory parties hereto desire to
11 provide for joint natural resource management and
12 enforcement of laws and regulations pertaining to
13 natural resources and boating at the Jennings Randolph
14 Lake Project lying in Garrett County, Maryland, and
15 Mineral County, West Virginia, for which they have a
16 joint responsibility; and they declare as follows:

17 a. The Congress, under Public Law 87-874, authorized
18 the development of the Jennings Randolph Lake Project
19 for the North Branch of the Potomac River substantially
20 in accordance with House Document Number 469, 87th
21 Congress, 2nd Session for flood control, water supply,
22 water quality and recreation; and

23 b. Section 4 of the Flood Control Act of 1944 (CH 665,
24 58 STAT.534) provides that the chief of engineers, under
25 the supervision of the secretary of war (now secretary
26 of the army), is authorized to construct, maintain and

27 operate public park and recreational facilities in
28 reservoir areas under control of such secretary for the
29 purpose of boating, swimming, bathing, fishing and
30 other recreational purposes, so long as the same is not
31 inconsistent with the laws for the protection of fish and
32 wildlife of the state(s) in which such area is situated; and

33 c. Pursuant to the authorities cited above, the U.S.
34 army engineer district (Baltimore), hereinafter "Dis-
35 trict," did construct and now maintains and operates the
36 Jennings Randolph Lake Project; and

37 d. The National Environmental Policy Act of 1969
38 (P.L. 91-190) encourages productive and enjoyable
39 harmony between man and his environment, promotes
40 efforts which will stimulate the health and welfare of
41 man, and encourages cooperation with state and local
42 governments to achieve these ends; and

43 e. The Fish and Wildlife Coordination Act (16 U.S.C.
44 661-666C) provides for the consideration and coordina-
45 tion with other features of water-resource development
46 programs through the effectual and harmonious plan-
47 ning, development, maintenance and coordination of
48 wildlife conservation and rehabilitation; and

49 f. The District has fisheries and wildlife plans as part
50 of the District's project operational plan management;
51 and

52 g. In the respective states, the Maryland department
53 of natural resources (hereinafter referred to as Mary-
54 land DNR) and the West Virginia division of natural
55 resources (hereinafter referred to as West Virginia
56 DNR) are primarily responsible for providing a system
57 of control, propagation, management, protection and
58 regulation of natural resources and boating in Maryland
59 and West Virginia and the enforcement of laws and
60 regulations pertaining to those resources as provided in
61 annotated code of Maryland natural resources article
62 and West Virginia chapter 20, respectively, and the
63 successors thereof; and

64 h. The District, the Maryland department of natural
65 resources and the West Virginia division of natural

66 resources are desirous of conserving, perpetuating and
67 improving fish and wildlife resources and recreational
68 benefits of the Jennings Randolph Lake Project; and

69 i. The District and the states of Maryland and West
70 Virginia wish to implement the aforesaid acts and
71 responsibilities through this compact and they each
72 recognize that consistent enforcement of the natural
73 resources and boating laws and regulations can best be
74 achieved by entering this compact:

75 Now, therefore

76 The states of West Virginia and Maryland, with the
77 concurrence of the United States department of the
78 army, corps of engineers, hereby solemnly covenant and
79 agree with each other, upon enactment of concurrent
80 legislation by the Congress of the United States and by
81 the respective state legislatures, to the Jennings
82 Randolph Lake Project Compact, which consists of this
83 preamble and the articles that follow:

84 ARTICLE I. NAME, FINDINGS AND PURPOSE.

85 a. This compact shall be known and may be cited as
86 the Jennings Randolph Lake Project Compact.

87 b. The legislative bodies of the respective signatory
88 parties, with the concurrence of the U.S. army corps of
89 engineers, hereby find and declare:

90 1. The water resources and project lands of the
91 Jennings Randolph Lake Project are affected with local,
92 state, regional and national interest, and the planning,
93 conservation, utilization, protection and management of
94 these resources, under appropriate arrangements for
95 intergovernmental cooperation, are public purposes of
96 the respective signatory parties; and

97 2. The lands and waters of the Jennings Randolph
98 Lake Project are subject to the sovereign rights and
99 responsibilities of the signatory parties, and it is the
100 purpose of this compact that, notwithstanding any
101 boundary between Maryland and West Virginia that
102 preexisted the creation of Jennings Randolph Lake, the
103 parties will have and exercise concurrent jurisdiction

104 over any lands and waters of the Jennings Randolph
105 Lake Project concerning natural resources and boating
106 laws and regulations in the common interest of the
107 people of the region.

108 ARTICLE II. DISTRICT RESPONSIBILITIES.

109 The District, within the Jennings Randolph Lake
110 Project,

111 a. Acknowledges that the West Virginia division of
112 natural resources and the Maryland department of
113 natural resources have authorities and responsibilities
114 in the establishment, administration and enforcement of
115 the natural resources and boating laws and regulations
116 applicable to this project: *Provided*, That the laws and
117 regulations promulgated by the states support and
118 implement, where applicable, the intent of the rules and
119 regulations governing public use of water resources
120 development projects administered by the chief of
121 engineers in Title 36, Chapter III, Part 327, Code of
122 Federal Regulations,

123 b. Agrees to practice those forms of resource manage-
124 ment as determined jointly by the District, the West
125 Virginia division of natural resources and the Maryland
126 department of natural resources to be beneficial to
127 natural resources and which will enhance public
128 recreational opportunities compatible with other auth-
129 orized purposes of the project,

130 c. Agrees to consult with the West Virginia division
131 of natural resources and the Maryland department of
132 natural resources prior to the issuance of any permits
133 for activities or special events which would include, but
134 not necessarily be limited to, fishing tournaments,
135 training exercises, regattas, marine parades, placement
136 of ski ramps, slalom water ski courses and the establish-
137 ment of private markers or lighting. All such permits
138 issued by the District will require the permittee to
139 comply with all state laws and regulations,

140 d. Agrees to consult with the West Virginia division
141 of natural resources and the Maryland department of
142 natural resources regarding any recommendations for

143 regulations affecting natural resources including, but
144 not limited to, hunting, trapping, fishing or boating at
145 the Jennings Randolph Lake Project which the District
146 believes might be desirable for reasons of public safety,
147 administration, or public use and enjoyment,

148 e. Agrees to consult with the West Virginia division
149 of natural resources and the Maryland department of
150 natural resources relative to the marking of the lake
151 with buoys, aids to navigation, regulatory markers and
152 establishing and posting of speed limits, no wake zones,
153 restricted or other control areas and to provide, install
154 and maintain such buoys, aids to navigation and
155 regulatory markers as are necessary for the implemen-
156 tation of the District's operational management plan. All
157 buoys, aids to navigation and regulatory markers to be
158 used shall be marked in conformance with the uniform
159 state waterway marking system,

160 f. Agrees to allow hunting, trapping, boating and
161 fishing by the public in accordance with the laws and
162 regulations relating to the Jennings Randolph Lake
163 Project.

164 g. Agrees to provide, install and maintain public
165 ramps, parking areas, courtesy docks, etc., as provided
166 for by the approved Corps of Engineers master plan,
167 and

168 h. Agrees to notify the West Virginia division of
169 natural resources and the Maryland department of
170 natural resources of each reservoir drawdown prior
171 thereto excepting drawdown for the reestablishment of
172 normal lake levels following flood control operations and
173 drawdown resulting from routine water control man-
174 agement operations described in the reservoir regula-
175 tion manual including releases requested by water
176 supply owners and normal water quality releases. In
177 case of emergency releases or emergency flow curtail-
178 ments, telephone or oral notification will be provided.
179 The District reserves the right, following issuance of the
180 above notice, to make operational and other tests which
181 may be necessary to ensure the safe and efficient
182 operation of the dam, for inspection and maintenance

183 purposes, and for the gathering of water quality data
184 both within the impoundment and in the Potomac River
185 downstream from the dam.

186 ARTICLE III. STATE RESPONSIBILITIES.

187 The state of West Virginia and the state of Maryland
188 agree:

189 a. That each state will have and exercise concurrent
190 jurisdiction with the District and the other state for the
191 purpose of enforcing the civil and criminal laws of the
192 respective states pertaining to natural resources and
193 boating laws and regulations over any lands and waters
194 of the Jennings Randolph Lake Project;

195 b. That existing natural resources and boating laws
196 and regulations already in effect in each state shall
197 remain in force on the Jennings Randolph Lake Project
198 until either state amends, modifies or rescinds its laws
199 and regulations;

200 c. That the agreement for fishing privileges dated the
201 twenty-fourth day of June, one thousand nine hundred
202 eighty-five, between the state of West Virginia and the
203 state of Maryland, as amended, remains in full force and
204 effect;

205 d. To enforce the natural resources and boating laws
206 and regulations applicable to the Jennings Randolph
207 Lake Project;

208 e. To supply to the District with the name, address
209 and telephone number of the persons to be contacted
210 when any drawdown except those resulting from normal
211 regulation procedures occurs;

212 f. To inform the reservoir manager of all emergencies
213 or unusual activities occurring on the Jennings Ran-
214 dolph Lake Project;

215 g. To provide training to District employees in order
216 to familiarize them with natural resources and boating
217 laws and regulations as they apply to the Jennings
218 Randolph Lake Project; and

219 h. To recognize that the District and other federal

220 agencies have the right and responsibility to enforce,
221 within the boundaries of the Jennings Randolph Lake
222 Project, all applicable federal laws, rules and regula-
223 tions so as to provide the public with safe and healthful
224 recreational opportunities and to provide protection to
225 all federal property within the project.

226 ARTICLE IV. MUTUAL COOPERATION.

227 Pursuant to the aims and purposes of this compact,
228 the state of West Virginia, the state of Maryland and
229 the District mutually agree that representatives of their
230 natural resource management and enforcement agencies
231 will cooperate to further the purposes of this compact.
232 This cooperation includes, but is not limited to, the
233 following:

234 a. Meeting jointly at least once annually, and provid-
235 ing for other meetings as deemed necessary for discus-
236 sion of matters relating to the management of natural
237 resources and visitor use on lands and waters within the
238 Jennings Randolph Lake Project;

239 b. Evaluating natural resources and boating, to
240 develop natural resource and boating management
241 plans and to initiate and carry out management
242 programs;

243 c. Encouraging the dissemination of joint publications,
244 press releases or other public information and the
245 interchange between parties of all pertinent agency
246 policies and objectives for the use and perpetuation of
247 natural resources of Jennings Randolph Lake Project;
248 and

249 d. Entering into working arrangements as occasion
250 demands for the use of lands, waters, construction and
251 use of buildings and other facilities at the project.

252 ARTICLE V. GENERAL PROVISIONS.

253 a. Each and every provision of this compact is subject
254 to the laws of the states of West Virginia and Maryland
255 and the laws of the United States, and the delegated
256 authority in each instance.

257 b. The enforcement and applicability of natural

258 resources and boating laws and regulations referenced
259 in this compact shall be limited to the lands and waters
260 of the Jennings Randolph Lake Project, including, but
261 not limited to, the prevailing reciprocal fishing laws and
262 regulations between the states of West Virginia and
263 Maryland.

264 c. Nothing in this compact shall be construed as
265 obligating any party hereto to the expenditure of funds
266 or the future payment of money in excess of appropri-
267 ations authorized by law.

268 d. The provisions of this compact shall be severable,
269 and if any phrase, clause, sentence or provision of the
270 Jennings Randolph Lake Project Compact is declared to
271 be unconstitutional or inapplicable to any signatory
272 party or agency of any party, the constitutionality and
273 applicability of the compact shall not be otherwise
274 affected as to any other provision, party or agency. It
275 is the legislative intent that the provisions of this
276 compact be reasonably and liberally construed to
277 effectuate the stated purposes of the compact.

278 e. No member of or delegate to Congress, or signatory
279 shall be admitted to any share or part of this compact,
280 or to any benefit that may arise therefrom; but this
281 provision shall not be construed to extend to this
282 agreement if made with a corporation for its general
283 benefit.

284 f. When this compact has been ratified by the
285 Legislature of each respective state, when the governor
286 of West Virginia and the governor of Maryland have
287 executed this compact on behalf of their respective
288 states and have caused a verified copy thereof to be filed
289 with the secretary of state of each respective state, when
290 the Baltimore district engineer of the U.S. army corps
291 of engineers has executed its concurrence with this
292 compact, and when this compact has been consented to
293 by the Congress of the United States, then this compact
294 shall become operative and effective.

295 g. Either state may, by legislative act, after one year's
296 written notice to the other, withdraw from this compact,
297 the U.S. army corps of engineers may withdraw its

298 concurrence with this compact upon one year's written
299 notice from the Baltimore district engineer to the
300 governor of each state.

301 h. This compact may be amended from time to time.

302 Each proposed amendment shall be presented in
303 resolution form to the governor of each state and the
304 Baltimore district engineer of the U.S. army corps of
305 engineers. An amendment to this compact shall become
306 effective only after it has been ratified by the legisla-
307 tures of both signatory states and concurred in by the
308 U.S. army corps of engineers, Baltimore district.
309 Amendments shall become effective thirty days after the
310 date of the last concurrence or ratification.

§29-1J-2. Date on which article becomes effective.

1 This article shall take effect and become operative and
2 the compact be executed for and on behalf of this state
3 only from and after the approval, ratification, and
4 adoption, and entering into thereof by the state of
5 Maryland and with the concurrence of the United States
6 army corps of engineers, Baltimore, Maryland district.

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

[Handwritten signature]
.....
Chairman Senate Committee

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

Originating in the House.

Takes effect from passage.

Carroll E. Holmes
.....
Clerk of the Senate

Donald J. Kopp
.....
Clerk of the House of Delegates

Paul Brewster
.....
President of the Senate

Paul Abner
.....
Speaker of the House of Delegates

The within *is approved* this the *8th*
day of *March*, 1994.

[Handwritten signature]
.....
Governor



PRESENTED TO THE

GOVERNOR

Date

3/8/94

Time

9:50 am