

SB 209

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



## ENROLLED

*Committee Substitute for*

SENATE BILL NO. 209

(By Senator Unger, et al )



PASSED March 10, 2000

In Effect ninety days from Passage

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

## Senate Bill No. 209

(SENATORS UNGER, ANDERSON, LOVE, MITCHELL,  
BALL, BOLEY, BOWMAN, EDGELL, DITTMAR, SNYDER,  
KESSLER, HUNTER, MCCABE, REDD, SPROUSE,  
DAWSON AND MCKENZIE, *original sponsors*)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto thirteen new sections, designated sections seventy-three-a, seventy-three-b, seventy-three-c, seventy-three-d, seventy-four-a, seventy-four-b, seventy-four-c,

seventy-nine, eighty, eighty-one, eighty-two, eighty-three and eighty-four, all relating to establishing farmland protection programs; presenting findings; authorizing county farmland protection boards; establishing a state agricultural land protection authority; defining terms; establishing procedures; authorizing promulgation of rules; and providing for funding.

*Be it enacted by the Legislature of West Virginia:*

That sections seventy-two, seventy-three, seventy-four, seventy-five, seventy-six, seventy-seven and seventy-eight, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto thirteen new sections, designated sections seventy-three-a, seventy-three-b, seventy-three-c, seventy-three-d, seventy-four-a, seventy-four-b, seventy-four-c, seventy-nine, eighty, eighty-one, eighty-two, eighty-three and eighty-four, all to read as follows:

**ARTICLE 24. PLANNING AND ZONING.**

**PART XX. VOLUNTARY FARMLAND  
PROTECTION PROGRAMS.**

**§8-24-72. Legislative findings and purpose.**

1 The Legislature hereby finds and declares that agricul-  
2 ture is a unique “life support” industry and that a need  
3 exists to assist those agricultural areas of the state which  
4 are experiencing the irreversible loss of agricultural land.  
5 It is the intent of the Legislature to provide persons and  
6 other entities an opportunity to voluntarily protect  
7 agricultural land and woodland in order to: (1) Assist in  
8 sustaining the farming community; (2) provide sources of  
9 agricultural products within the state for the citizens of  
10 the state; (3) control the urban expansion which is con-  
11 suming the agricultural land, topsoil and woodland of the

12 state; (4) curb the spread of urban blight and deterioration;  
13 (5) protect agricultural land and woodland as open-space  
14 land; (6) enhance tourism; and (7) protect worthwhile  
15 community values, institutions and landscapes which are  
16 inseparably associated with traditional farming.

17 Further, it is the intent of the Legislature to establish a  
18 West Virginia agricultural land protection authority,  
19 hereinafter "authority", to assist persons, other entities  
20 and counties to obtain funding from any source available  
21 to accomplish the purposes of the voluntary farmland  
22 protection programs.

**§8-24-73. County farmland protection programs and farmland  
protection boards authorized; authority of county  
commission to approve purchase of farmland  
easements; expense reimbursement of actual  
expenses for the board members.**

1 The county commission of each county may adopt and  
2 implement a farmland protection program within the  
3 county. The county commission of each county which  
4 decides to adopt and implement a farmland protection  
5 program shall appoint a farmland protection board. The  
6 farmland protection board shall administer on behalf of  
7 the county commission all matters concerning farmland  
8 protection. The county commission has final approval  
9 authority for any and all purchases of easements for the  
10 farmland protection program by the board.

11 The farmland protection board shall adopt bylaws  
12 prescribing the board's officers, meeting dates, re-  
13 cord-keeping procedures, meeting attendance require-  
14 ments and other internal operational procedures. The  
15 member of the farmland protection board who is a county  
16 commissioner shall serve as temporary chairman of the  
17 board until the board's bylaws are adopted and until the  
18 board's officers are selected as prescribed by those bylaws.

19 The farmland protection board shall prepare a document  
20 proposing a farmland protection program which is consis-  
21 tent with the Legislature's intent.

22 Each member of the board shall receive expense reim-  
23 bursement for actual expenses incurred while engaged in  
24 the discharge of official duties, the actual expenses not to  
25 exceed the amount paid to members of the Legislature.

**§8-24-73a. Content and requirements of farmland protection programs.**

1 An adopted farmland protection program shall include  
2 only those qualifying properties which are voluntarily  
3 offered into the program by the landowners of the proper-  
4 ties.

5 An adopted farmland protection program shall meet the  
6 following minimum requirements:

7 (a) The program shall be developed by the county  
8 farmland protection board and approved by the county  
9 commission. The county farmland protection board, in  
10 consultation with the local soil conservation district, shall  
11 administer the farmland protection program;

12 (b) The board shall establish uniform standards and  
13 guidelines for the eligibility of properties for the program.  
14 The standards and guidelines shall take into consideration  
15 the following: Current and past uses of the property,  
16 existing property improvements, property tract size and  
17 shape, location of the property tract in relation to other  
18 potential agricultural property tracts, impending threat of  
19 conversion of the property to nonagricultural uses, prop-  
20 erty ownership and existing deed covenants and restric-  
21 tions with respect to the property;

22 (c) The guidelines established by the board shall outline  
23 the various methods of farmland protection which are

24 available to prospective participating property owners and  
25 the procedures to be followed in applying for program  
26 consideration.

**§8-24-73b. Farmland protection boards—appointment, composition, terms.**

1 (a) *Composition.* – A farmland protection board shall be  
2 composed of seven members, each serving without com-  
3 pensation. Membership on the farmland protection board  
4 shall consist of the following: One county commissioner;  
5 the executive director of the county development author-  
6 ity; one farmer who is a county resident and a member of  
7 the county farm bureau; one farmer who is a county  
8 resident and a member of a soil conservation district; one  
9 farmer who is a county resident; and two county residents  
10 who are not members of any of the foregoing organiza-  
11 tions. All members of the farmland protection board shall  
12 be voting members, except the county commissioner who  
13 shall serve in an advisory capacity as a nonvoting member.

14 (b) *Terms.* – Each member of a farmland protection  
15 board shall be appointed for a term of office of four years  
16 except the initial appointment of two voting board mem-  
17 bers shall be for a term of two years:

18 (1) No member may serve for more than two consecutive  
19 full terms; and

20 (2) An appointment to fill a vacancy shall be for the  
21 remainder of the unexpired term.

**§8-24-73c. Farmland protection boards—powers.**

1 A farmland protection board has the following general  
2 powers:

3 (a) *Power to sue.* – To sue and be sued in contractual  
4 matters in its own name;

5 (b) *Power to contract.* –To enter into contracts generally  
6 and to execute all instruments necessary or appropriate to  
7 carry out its purposes;

8 (c) *Power to restrict use of land.* –To acquire or cohold,  
9 by gift, purchase, devise, bequest or grant, easements in  
10 gross, fee or other rights to restrict the use of agricultural  
11 land and woodland as may be designated to maintain the  
12 character of the land as agricultural land or woodland:  
13 *Provided,* That the county commission has final approval  
14 authority for any and all purchases of easements for the  
15 farmland protection program by the board;

16 (d) *Power to implement rules.* – To implement rules  
17 necessary to achieve the purposes of the voluntary farm-  
18 land protection programs;

19 (e) *Power to disseminate information.* –To promote the  
20 dissemination of information throughout the county  
21 concerning the activities of the farmland protection board;  
22 and

23 (f) *Power to seek funding.* –To pursue and apply for any  
24 and all county, state, federal and private funding avail-  
25 able, consistent with the purpose of the voluntary farm-  
26 land protection programs.

**§8-24-73d. Farmland protection board duties.**

1 The duties of each farmland protection board are as  
2 follows:

3 (a) To report to the county commission with respect to  
4 the acquisition of easements by the farmland protection  
5 board within the county and to obtain final approval  
6 authority for any and all purchases of easements for the  
7 farmland protection program by the board;

8 (b) To advise the authority concerning county priorities  
9 for agricultural protection;

10 (c) To promote protection of agriculture within the  
11 county by offering information and assistance to landown-  
12 ers with respect to the acquisition of easements;

13 (d) To seek and apply for all available funds from  
14 federal, state, county and private sources to accomplish  
15 the purposes of the voluntary farmland protection pro-  
16 grams; and

17 (e) To perform any other duties assigned by the county  
18 commission.

**§8-24-74. West Virginia agricultural land protection author-  
ity—established.**

1 A West Virginia agricultural land protection authority  
2 is established within the department of agriculture. The  
3 authority has the powers and duties provided in this  
4 article.

**§8-24-74a. West Virginia agricultural land protection author-  
ity—board of trustees.**

1 (a) *Composition; chairman; quorum; qualifications.* —The  
2 authority shall be governed and administered by a board  
3 of trustees composed of the state treasurer, the auditor and  
4 the commissioner of agriculture, who shall serve as ex  
5 officio members, and nine members to be appointed by the  
6 governor, by and with the advice and consent of the  
7 Senate, at least five of whom shall be representative of  
8 farmers from different areas of the state. The state  
9 treasurer, auditor and the commissioner of agriculture  
10 may appoint designees to serve on the board of trustees.  
11 One of the appointed members who is not a representative  
12 of farmers shall be a representative of the division of  
13 natural resources; one of the appointed members who is  
14 not a representative of farmers shall be a representative of  
15 the soil conservation district; and one of the appointed  
16 members who is not a representative of farmers shall be a



17 representative of an I.R.C. 501(c)(3) qualified land trust.  
18 Three of the five representatives of farmers shall be  
19 appointed as follows:

20 (1) Two from a list of five nominees submitted by the  
21 West Virginia department of agriculture; and

22 (2) One from a list of three nominees submitted by the  
23 West Virginia farm bureau.

24 The governor shall appoint the chairman of the board,  
25 from among the nine appointed members. A majority of  
26 the members of the board serving at any one time consti-  
27 tutes a quorum for the transaction of business.

28 Notwithstanding any provision of law to the contrary, a  
29 person may be appointed to and serve on the board as an  
30 appointed member even if prior to the appointment the  
31 person conveyed an easement on the person's land to the  
32 authority.

33 (b) *Terms.* – (1) The governor, with the advice and  
34 consent of the Senate, shall appoint the nine members for  
35 the following terms:

36 (A) Three for a term of four years;

37 (B) Three for a term of three years; and

38 (C) Three for a term of two years.

39 (2) Successors to appointed members whose terms expire  
40 shall be appointed for terms of four years. Vacancies shall  
41 be filled for the unexpired term. An appointed member  
42 may not serve more than two successive terms. Appoint-  
43 ment to fill a vacancy may not be considered as one of two  
44 terms.

45 (c) *Oath.* – Appointed members shall take the oath of  
46 office as prescribed by law.

47 (d) *Compensation and expenses.* – Members shall not  
48 receive compensation. Each member of the board shall  
49 receive expense reimbursement for actual expenses  
50 incurred while engaged in the discharge of official duties,  
51 the actual expenses not to exceed the amount paid to  
52 members of the Legislature.

**§8-24-74b. West Virginia agricultural land protection authority-powers.**

1 The authority has the following general powers:

2 (a) *Power to sue.* – To sue and be sued in contractual  
3 matters in its own name;

4 (b) *Power to contract.* – To enter into contracts generally  
5 and to execute all instruments necessary or appropriate to  
6 carry out its purposes;

7 (c) *Power to restrict use of land.* – To acquire or cohold,  
8 by gift, purchase, devise, bequest or grant, easements in  
9 gross, fee or other rights to restrict the use of agricultural  
10 land and woodland as may be designated to maintain the  
11 character of the land as agricultural land or woodland;

12 (d) *Power to disseminate information.* – To promote the  
13 dissemination of information throughout the state con-  
14 cerning the activities of the farmland protection board;  
15 and

16 (e) *Power to seek funding.* – To pursue and apply for any  
17 and all state, federal and private funding available  
18 consistent with the purpose of the voluntary farmland  
19 protection programs.

**§8-24-74c. West Virginia agricultural land protection authority-duties.**

1 The authority shall:

2 (a) Disseminate information regarding agricultural land  
3 protection and promote the protection of agricultural land;

4 (b) Assist county farmland protection boards in applying  
5 for and obtaining all state and federal funding available  
6 consistent with the purposes of the farmland protection  
7 programs;

8 (c) Upon request of a farmland protection board, provide  
9 technical and legal services necessary to procure, acquire,  
10 draft, file and record conservation and preservation  
11 easements;

12 (d) Prepare and file with the governor's office and with  
13 the Legislature by the thirty-first day of August of each  
14 year a report including, but not limited to, the following  
15 information:

16 (1) The cost per easement obtained;

17 (2) The identity of all applicants for conservation and  
18 preservation easements; and

19 (3) The identity of all applicants from whom conserva-  
20 tion and preservation easements have been acquired;

21 (e) Seek and apply for all available funds from federal,  
22 state and private sources to accomplish the purposes of the  
23 farmland protection programs.

**§8-24-75. Definitions.**

1 For purposes of the voluntary farmland protection  
2 programs, the following terms have the meanings set forth  
3 in this section.

4 (a) *Acquisition of easement.* –The holding or coholding  
5 of land-use restrictions as defined in this article, whether  
6 obtained through purchase, gift, devise, bequest, grant or  
7 contract to cohold with another holder.

8 (b) *Conservation easement.* – This article incorporates  
9 the definition of a conservation easement found in section  
10 three, article twelve, chapter twenty of this code except  
11 that a conservation easement created under this article  
12 must be held or coheld by at least one “holder” as defined  
13 in that section in perpetuity.

14 (c) *Farm, farmland or agricultural land.* – A tract, or  
15 contiguous tracts of land, of any size, used or useable for  
16 agriculture, horticulture or grazing and includes all real  
17 property designated as wetlands that are part of a prop-  
18 erty used or useable as farmland.

19 (d) *Preservation easement.* – This article incorporates  
20 the definition of a preservation easement found in section  
21 three, article twelve, chapter twenty of this code except  
22 that a preservation easement created under this article  
23 must be held or coheld by at least one “holder” as defined  
24 in that section and must be perpetual in its duration.

25 (e) *Woodland.* – Woodland shall be considered land of a  
26 farm only if it is part of or appurtenant to a tract of land  
27 which is a farm, or held by common ownership of a person  
28 or entity owning a farm, but in no event may woodland  
29 include land used primarily in commercial forestry or the  
30 growing of timber for commercial purposes or any other  
31 use inconsistent with farm use.

32 (f) *Opt-out provision.* – A provision which may be  
33 inserted into any conservation or preservation easement  
34 agreement entered into pursuant to this article which  
35 would act as a mechanism to place the easement selling  
36 price into an escrow fund for the purpose of allowing the  
37 owner or owners up to five years to rescind the decision to  
38 enter into the farmland protection program.

**§8-24-76. Methods of farmland protection.**

1 (a) The authority or a county farmland protection board  
2 may negotiate with and compensate eligible property  
3 owners to ensure the protection of farmland within the  
4 county or state. Methods of protecting farmland may  
5 include, but are not limited to, the following:

6 (1) *Acquisition of conservation easement or preservation*  
7 *easement.* – With the consent of a property owner, the  
8 county farmland protection board or the authority may  
9 acquire and place on record a conservation or preservation  
10 easement. Acquired easements apply only to those proper-  
11 ties which qualify for consideration under the terms  
12 established by an adopted farmland protection program;

13 (2) *Acquisition of land and disposition.* – With the  
14 consent of a property owner, the county farmland protec-  
15 tion board or the authority may acquire any property  
16 which qualifies for agricultural protection under terms  
17 established by an adopted farmland protection program.  
18 The county farmland protection board or the authority  
19 may lease, as lessor, acquired property for agricultural  
20 uses or may restrict the property to agricultural uses and  
21 sell the property at fair market value for use as a farm.  
22 Any property acquired by a county farmland protection  
23 board or the authority and then sold shall be sold subject  
24 to a conservation or preservation easement. If the prop-  
25 erty is leased, the lessee shall pay to the county commis-  
26 sion, in addition to rent, an annual fee set by the county  
27 commission. The amount of this annual fee shall be  
28 commensurate with the amount of property taxes which  
29 would be assessed in accordance with the provisions of  
30 this code upon the property if the property were held by a  
31 private landowner.

32 (b) Revenues from the sale of properties restricted to  
33 agricultural uses shall be used to recover the original  
34 purchase costs of the properties and shall be returned to  
35 the applicable funds which were used by the county

36 farmland protection board or the authority to purchase the  
37 property. Any profits resulting from the sale of property  
38 restricted to agricultural uses shall be deposited in a  
39 farmland protection fund.

**§8-24-77. Offer of conservation or preservation easements.**

1 (a) *Owner may offer to sell or donate a conservation or*  
2 *preservation easement.* – An owner of farmland may offer  
3 by written application to sell or donate a conservation or  
4 preservation easement on all or any portion of the farm to  
5 a county farmland board or the authority.

6 (b) *Requirements for application to sell or donate.* – In  
7 order to be considered by a county farmland protection  
8 board or the authority, an application to sell or donate  
9 shall:

10 (1) Include an asking price, if any, at which the owner is  
11 willing to sell a conservation or preservation easement and  
12 shall specify the terms under which the offer is made; and

13 (2) Include a complete description of the land, including,  
14 but not limited to, an itemization of all debts secured by  
15 the land and the identity and amount of all liens.

**§8-24-78. Value of conservation or preservation easement.**

1 (a) *Maximum value.* – The maximum value of any  
2 conservation or preservation easement acquired by the  
3 county farmland protection board or the authority is the  
4 asking price or the difference between the fair market  
5 value of the land and the agricultural value of the land,  
6 whichever is lower.

7 (b) *Fair market value.* – The fair market value of the  
8 land is the price as of the valuation date for the highest  
9 and best use of the property which a vendor, willing but  
10 not obligated to sell, would accept for the property, and  
11 which a purchaser, willing but not obligated to buy, would

12 pay for the property if the property was not subject to any  
13 restriction imposed under this article.

14 (c) *Agricultural value.* –The agricultural value of land  
15 is the price as of the valuation date which a vendor,  
16 willing but not obligated to sell, would accept for the  
17 property, and which a purchaser, willing but not obligated  
18 to buy, would pay for the property subject to the restric-  
19 tions placed upon it by the conservation or preservation  
20 easement.

21 (d) *Determination of values.* –The value of the easement  
22 is determined at the time the county farmland protection  
23 board or the authority is requested in writing to acquire  
24 the easement. The fair market value is determined by the  
25 county farmland protection board or the authority based  
26 on one or more appraisals obtained by the county farm-  
27 land protection board or the authority, and appraisals, if  
28 any, of the landowner.

29 (e) *Arbitration.* – If the landowner and the county  
30 farmland protection board or the authority do not agree on  
31 the value of the easement as determined by the state, the  
32 landowner, the county farmland protection board or the  
33 authority may request that the matter be referred to a  
34 mutually agreed upon mediator for arbitration as to the  
35 value of the easement. The arbitration shall be conducted  
36 in accordance with the rules promulgated by the American  
37 arbitration association. The value determined at arbitra-  
38 tion is binding upon the owner and the county farmland  
39 protection board or the authority in a purchase of the  
40 easement made subsequent to the arbitration for a period  
41 of two years, unless the landowner and the county farm-  
42 land protection board or the authority agree upon a lesser  
43 value or the landowner, the county farmland protection  
44 board or the authority appeals the results of the arbitra-  
45 tion to the circuit court.

**§8-24-79. Criteria for acquisition of conservation and preservation easements by county farmland protection boards and the authority.**

1 The authority and county farmland protection boards, in  
2 ranking applications for conservation and preservation  
3 easements, shall consider the following factors as priori-  
4 ties:

5 (a) The imminence of residential, commercial or indus-  
6 trial development;

7 (b) The total acreage offered for conservation or preser-  
8 vation easement;

9 (c) The presence of prime farmland, unique farmland,  
10 farmland of statewide importance, other locally significant  
11 farmlands and the productive capacity of the acreage;

12 (d) Whether the property offered is contiguous or  
13 appurtenant to working farms;

14 (e) The ratio of the asking price, if any, of the easement  
15 to the fair market value of the easement;

16 (f) The historical, architectural, archaeological, cultural,  
17 recreational, natural, scenic, source water protection or  
18 unique value of the easement: *Provided*, That determina-  
19 tions of the authority or a county farmland protection  
20 board are not a substitute for and do not have the effect of  
21 other procedures under state or federal law for granting  
22 protected status to land, including but not limited to  
23 procedures under the National Historic Preservation Act  
24 of 1966, as amended, or rules of the director of the historic  
25 preservation section of the division of culture and history  
26 authorized in section eight, article one, chapter twenty-  
27 nine of this code, or procedures under the authority of the  
28 tourism commissioner or the parks and recreation section  
29 of the division of natural resources;



30 (g) The existence and amount of secured debt upon the  
31 property, as determined by a title search, and whether the  
32 total exceeds the agricultural value of the land as deter-  
33 mined by the appraisal as required in subsection (d),  
34 section seventy-eight of this article; and

35 (h) The length of the protective easement.

**§8-24-80. Use of land for which conservation or preservation  
easement acquired.**

1 (a) *Provisions to be included in conservation or preserva-*  
2 *tion easement and county farmland protection board rules,*  
3 *or the authority rules.* – Farmland upon which a conserva-  
4 tion or preservation easement has been recorded may be  
5 used for the following:

6 (1) Farm use;

7 (2) Businesses directly related to the retail sale of farm  
8 products;

9 (3) Any activity performed for religious, charitable or  
10 educational purposes or to foster tourism; and

11 (4) Any home-based business that does not require a  
12 division of environmental protection permit to operate.

13 Notwithstanding any of the exceptions in this subsec-  
14 tion, any use of land under preservation or conservation  
15 easement must be consistent with the purpose of the  
16 farmland protection programs.

17 (b) *Use for commercial, industrial or residential pur-*  
18 *poses.* – Excepting existing and future uses described in  
19 subsections (c), (d) and (e) of this section, a landowner  
20 whose land is subject to a conservation or preservation  
21 easement may not develop the land for any commercial,  
22 industrial, residential or other nonfarm purpose. Nonresi-

23 dential, noncommercial, nonindustrial farm support  
24 buildings or structures are permitted.

25 (c) *Exclusion for single residential dwelling.* – On request  
26 to a county farmland protection board or the authority, an  
27 owner may exclude two acres per each single residential  
28 dwelling, which existed at the time of the sale of the  
29 easement, from the easement prohibitions on residential  
30 development. A land survey and recordation identifying  
31 each single residential dwelling shall be provided at the  
32 expense of the owner. However, before any exclusion is  
33 granted, an owner shall agree with the county farmland  
34 protection board or the authority not to subdivide further  
35 for residential purposes any acreage allowed to be ex-  
36 cluded. This agreement shall be recorded among the land  
37 records where the land is located and shall bind all future  
38 owners.

39 (d) *Exclusion for certain existing and future uses.* – This  
40 article neither abrogates nor creates any pre-existing  
41 rights in the land owned by any person not joining as a  
42 grantor of a conservation or preservation easement.  
43 Neither the creation nor the existence of a conservation or  
44 preservation easement shall prevent existing or future use  
45 of the land based on a preexisting right, or prevent any  
46 existing or future use consistent with state law with  
47 respect to transmission and telecommunications facilities'  
48 rights-of way, easements and licenses.

49 (e) *Condemnation of private property for public use.* –  
50 This article neither abrogates nor creates any rights  
51 inconsistent with state or federal law respecting the power  
52 of condemnation of private property for public use. Any  
53 person or entity exercising the power of eminent domain  
54 must pay compensation at not less than the fair market  
55 value of the land to the court having jurisdiction of the  
56 proceeding or as directed by the court. The term “fair  
57 market value” as used in this subdivision shall be deter-

58 mined without regard to the existence of the conservation  
59 or preservation easement. Neither the creation nor the  
60 existence of a conservation or preservation easement shall  
61 prevent acquisition of real property, or any right or  
62 interest in the property, for public use.

**§8-24-81. Funding of farmland protection programs.**

1 (a) *Creation of fund.* – A county commission may use any  
2 funds not specifically limited to other uses to fund and  
3 support a farmland protection program and, once having  
4 created a county farmland protection board, shall autho-  
5 rize the board to create and maintain a farmland protec-  
6 tion fund and hire staff as it considers appropriate.

7 (b) *Created and continued.* – The West Virginia farmland  
8 protection fund is created for the purposes specified in this  
9 article.

10 (c) *Sources.* – The West Virginia farmland protection  
11 fund is comprised of:

12 (1) Any money made available to the fund by general or  
13 special fund appropriations;

14 (2) Any money made available to the fund by grants or  
15 transfers from governmental or private sources;

16 (3) Any money realized by investments, interest, divi-  
17 dends or distributions; and

18 (4) Any money appropriated by the Legislature for the  
19 West Virginia farmland protection fund.

20 (d) *Disbursements.* – The treasurer may not disburse any  
21 money from the fund other than:

22 (1) For costs associated with the staffing, administration,  
23 and technical and legal duties of the authority;

24 (2) For reasonable expenses incurred by the members of  
25 the board of trustees of the authority in the performance  
26 of official duties; and

27 (3) For consideration in the purchase of farmland  
28 conservation and preservation easements.

29 (e) *Money remaining at end of fiscal year.* – Any money  
30 remaining in the fund at the end of a fiscal year shall not  
31 revert to the general revenue fund of the state, but shall  
32 remain in the West Virginia farmland protection fund to  
33 be used for the purposes specified in this chapter.

34 (f) *Budget.* – The estimated budget of the authority for  
35 the next fiscal year shall be included with the budget of  
36 the West Virginia department of agriculture.

37 (g) *Audit.* – The fund shall be audited annually.

**§8-24-82. Disbursements by the authority to county farmland protection boards.**

1 (a) *Applications; amount.* – If a county has established a  
2 county farmland protection program, the authority shall  
3 distribute within sixty days after the end of its fiscal year  
4 at least eighty percent of that fiscal year's remaining funds  
5 to county farmland protection boards who have certified  
6 to the authority that there is then pending an application  
7 for one or more conservation or preservation easements.  
8 Each certification shall include:

9 (1) The name of each applicant for an easement and the  
10 date of each application for an easement during the fiscal  
11 year;

12 (2) A description of the property upon which an ease-  
13 ment is offered; and

14 (3) An appraisal of the value of the conservation or  
15 preservation easement as provided for in section seventy-  
16 eight of this article.

17 (b) *Disbursement formula.* – Disbursement of authority  
18 funds to qualifying counties shall be based on the ratio of  
19 each county farmland protection board’s appraisal value  
20 of conservation and preservation easement applications,  
21 including those applications to donate easements, received  
22 during the fiscal year to the total of the appraisal value of  
23 all applications for conservation and preservation ease-  
24 ments for the fiscal year received by the authority from  
25 county farmland protection boards. Applications for  
26 easement donations may only be counted if the county  
27 farmland protection board holds or coholds the easement.

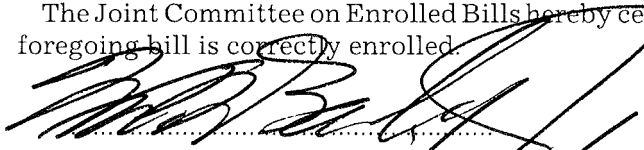
**§8-24-83. Classification of land subject to conservation or  
preservation easement.**

1 Notwithstanding any statute or rule to the contrary, any  
2 property held or coheld by a holder under a conservation  
3 or preservation easement as defined in this article, regard-  
4 less of ownership, shall be taxed as “agricultural lands”  
5 for ad valorem property tax purposes without further  
6 requirement, restriction or disqualification. For ad  
7 valorem property tax purposes, any property held or  
8 coheld by a holder under a perpetual conservation or  
9 preservation easement as defined by this article, regardless  
10 of ownership, shall be taxed as “agricultural lands”  
11 without further requirement, restriction or disqualifica-  
12 tion.

**§8-24-84. Authorization for commissioner of agriculture to  
promulgate proposed rules.**

1 The commissioner of agriculture may propose rules for  
2 legislative approval in accordance with the provisions of  
3 article three, chapter twenty-nine-a of this code to imple-  
4 ment the provisions of this article.

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



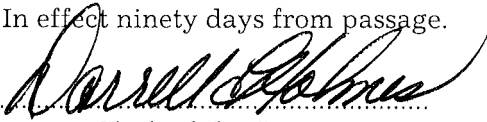
Chairman Senate Committee



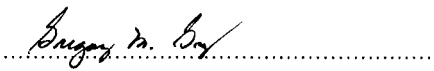
Chairman House Committee

Originating in the Senate.

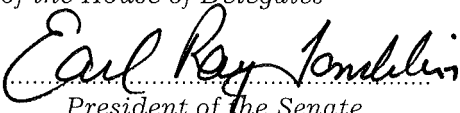
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates



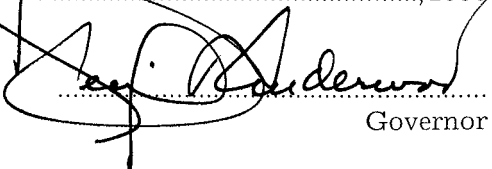
President of the Senate



Speaker House of Delegates

The within approved this the 5th

Day of April, 2000



Governor

PRESENTED TO THE

GOVERNOR

Date 3/31/10

Time 3:55 pm