WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4331

(By Delegates Doyle and Manuel)

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Passed March 9, 2002

In Effect Ninety Days from Passage
AN ACT to amend and reenact section seventy-four-a, article twenty-four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eighty-one of said article; to further amend said article by adding thereto a new section, designated section eighty-five; and to amend article one, chapter nineteen by adding thereto a new section designated section four-d, all relating to farmland protection programs; allowing an additional tax on the privilege of transferring title to real estate for funding of farmland protection programs; and creating the farmland preservation fees fund.

Be it enacted by the Legislature of West Virginia:

That section seventy-four-a, article twenty-four, chapter eight of the code of West Virginia, one thousand thirty-one, as amended, be amended and reenacted; that section eighty-one of said article be
amended and reenacted; that said article be further amended by adding thereto a new section designated as section eighty-five; and that article one, chapter nineteen be amended by adding thereto a new section designated as section four-d, all to read as follows:

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

(a) Composition; chairman; quorum; qualifications.—The authority, which shall be established by the first day of July, two thousand two, shall be governed and administered by a board of trustees composed of the state treasurer, the auditor and the commissioner of agriculture, who shall serve as ex officio members, and nine members to be appointed by the governor, by and with the advice and consent of the Senate, at least five of whom shall be representative of farmers from different areas of the state. The state treasurer, auditor and the commissioner of agriculture may appoint designees to serve on the board of trustees. One of the appointed members who is not a representative of farmers shall be a representative of the division of natural resources; one of the appointed members who is not a representative of farmers shall be a representative of the soil conservation district; and one of the appointed members who is not a representative of farmers shall be a representative of an I.R.C. 501(c)(3) qualified land trust. Three of the five representatives of farmers shall be appointed as follows:

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

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

The governor shall appoint the chairman of the board, from among the nine appointed members. A majority of the members
of the board serving at any one time constitutes a quorum for
the transaction of business.

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

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

(A) Three for a term of four years;

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

(C) Three for a term of two years.

(2) Successors to appointed members whose terms expire
shall be appointed for terms of four years. Vacancies shall be
filled for the unexpired term. An appointed member may not
serve more than two successive terms. Appointment to fill a
vacancy may not be considered as one of two terms.

(c) Oath. — Appointed members shall take the oath of
office as prescribed by law.

(d) Compensation and expenses. — Members shall not
receive compensation. Each member of the board shall receive
expense reimbursement for actual expenses incurred while
engaged in the discharge of official duties, the actual expenses
not to exceed the amount paid to members of the Legislature.

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

(a) County funds.
(1) Creation of county funds. - Once having created a county farmland protection program, a county commission may authorize the county farmland protection board to create and maintain a farmland protection fund and hire staff as it considers appropriate.

(2) Sources. - A county farmland protection fund is comprised of:

(A) Any moneys not specifically limited to other uses and dedicated to the fund by a county commission;

(B) Any moneys collected pursuant to section eighty-five of this article;

(C) Any money made available to the fund by grants or transfers from governmental or private sources; and

(D) Any money realized by investments, interest, dividends or distributions.

(b) State fund.

(1) Created and continued. — The West Virginia farmland protection fund is created for the purposes specified in this article.

(2) Sources. — The West Virginia farmland protection fund is comprised of:

(A) Any money made available to the fund by general or special fund appropriations;

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

(C) Any money realized by investments, interest, dividends or distributions; and
(D) Any money appropriated by the Legislature for the West Virginia farmland protection fund.

(3) Disbursements. — The treasurer may not disburse any money from the fund other than:

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

(B) For reasonable expenses incurred by the members of the board of trustees of the authority in the performance of official duties; and

(C) For consideration in the purchase of farmland conservation and preservation easements.

(4) Money remaining at end of fiscal year. — Any money remaining in the fund at the end of a fiscal year shall not revert to the general revenue fund of the state, but shall remain in the West Virginia farmland protection fund to be used for the purposes specified in this chapter.

(5) Budget. — The estimated budget of the authority for the next fiscal year shall be included with the budget of the West Virginia department of agriculture.

(6) Audit. — The fund shall be audited annually.

§8-24-85. Tax on privilege of transferring real property.

(a) Notwithstanding the provisions of section two, article twenty-two, chapter eleven, and effective the first day of January, two thousand three and thereafter, in addition to the tax imposed pursuant to article twenty-two, chapter eleven of this code, any county commission that has created a farmland protection program may impose an additional county excise tax for the privilege of transferring title to real estate at the rate of
no more than one dollar and ten cents for each five hundred
dollars' value or fraction thereof which additional tax shall
apply to a maximum value of one million dollars, as repre-
sentated by any document as defined in section one, article
twenty-two, chapter eleven of this code, payable at the time of
delivery, acceptance or presentation for recording of the
document.

(b) The tax imposed pursuant to this section is to be
administered and collected as the tax on the privilege of
transferring title to real estate imposed pursuant to the provi-
sions of article twenty-two, chapter eleven of this code.

(c) The tax imposed pursuant to this section is to be used
exclusively for the purpose of funding farmland preservation.

CHAPTER 19. AGRICULTURE.

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-4d. Farmland preservation fees fund.

There is hereby created a special revenue account within
the state treasury to be known as “Farmland Preservation Fees
Fund”. Expenditures from the fund shall be used exclusively by
the commissioner of agriculture for the purpose of funding
farmland preservation boards in any county which has adopted
and implemented a farmland protection program pursuant to the
farmland preservation act as enacted beginning with section
seventy-two, article twenty-four, chapter eight of this code.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 2nd day of April, 2002.

Governor