Committee Substitute

for

House Bill 2935

By Mr. Speaker (Mr. Armstead), Hanshaw, Ambler, Hill, Boggs and Baldwin

[Passed April 8, 2017; in effect ninety days from passage.]
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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-15-1; and to amend said code by adding thereto a new article, designated §29-30-1, §29-30-2, §29-30-3 and §29-30-4, all relating to state flood protection generally; establishing a Joint Legislative Committee on Flooding and providing for duties; establishing the Resiliency and Flood Protection Planning Act; providing legislative findings and purpose; creating the State Resiliency Office within the Development Office in the Department of Commerce; establishing a State Resiliency Office Board; providing certain duties and authorities of the State Resiliency Office; and requiring reporting to the Legislature.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §4-15-1; and that said code be amended by adding there to a new article, designated §29-30-1, §29-30-2, §29-30-3 and §29-30-4, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 15. JOINT LEGISLATIVE COMMITTEE ON FLOODING.

§4-15-1. Establishing a Joint Legislative Committee on Flooding.

(a) The President of the Senate and the Speaker of the House of Delegates shall each appoint five members of their respective houses, at least two of whom shall be members of the minority party, and at least one shall be a member of the Committee on Government Organization, to serve an interim committee charged with studying flood damage reduction and flood plain management. The President and the Speaker shall each designate a Chair from among the five committee members of their respective houses. This committee shall be known as the “Joint Legislative Committee on Flooding” and shall study all activities relating to flood protection and shall make recommendations to the Joint Committee on Government and Finance, which offer
solutions to reduce the reality and threat of future loss of life and property damages associated with flooding.

(b) The expenses of the committee are to be approved by the Joint Committee on Government and Finance and paid from legislative appropriations.

(c) The Chair of the State Resiliency Office, created pursuant to article thirty, chapter twenty-nine of this code, shall report quarterly to the committee, and shall prepare an annual report to the committee no later than December 31 of each year.

(d) The Chairs of the committee shall report annually, each January, to the Joint Committee on Government and Finance, with any proposals or legislation as may be deemed necessary to prevent or reduce the risk of flooding in this state.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 30. STATE RESILIENCY AND FLOOD PROTECTION PLAN ACT.

§29-30-1. Short title; legislative findings; purpose.

(a) This article may be known and cited as the "Resiliency and Flood Protection Planning Act".

(b) The West Virginia Legislature finds that:

(1) Flooding has affected each of the fifty-five counties and thirty-two major watersheds within the state;

(2) Over the past fifty-two years, more than two hundred and eighty-two West Virginians have died in floods;

(3) Between January 1996 and January 2017, there have been twenty-seven federal disaster declarations in West Virginia involving flooding; and

(4) In June 2016 much of West Virginia suffered devastating flooding.

(5) Despite the many state and federal flood protection programs and projects, flooding continues to be West Virginia's most common and widespread natural disaster.
(c) It is the purpose of this article to provide a comprehensive and coordinated statewide resiliency and flood protection planning program to save lives, and develop community and economic resiliency plans including, but not limited to, reducing or mitigating flood damage while supporting economic growth and protecting the environment.


(a) The State Resiliency Office is hereby created. The office shall be organized within the Development Office in the Department of Commerce as the recipient of disaster recovery and resiliency funds, excluding federal Stafford Act funds, and the coordinating agency of recovery and resiliency efforts, including matching funds for other disaster recovery programs, excluding those funds and efforts under the direct control of the State Coordinating Officer designated by the Governor for a particular event. The State Resiliency Office Board is also established and shall consist of the following eight members: the Secretary of the Department of Commerce or his or her designee; The Director of the Division of Natural Resources or his or her designee; the Secretary of the Department of Environmental Protection or his or her designee; the Executive Director of the State Conservation Agency or his or her designee; the Secretary of the Department of Military Affairs and Public Safety or his or her designee; the Secretary of Transportation or his or her designee; the Adjutant General of the West Virginia National Guard or his or her designee; and the Director of the Division of Homeland Security and Emergency Management within the Department of Military Affairs and Public Safety or his or her designee.

(b) The Secretary of the Department of Commerce shall be the chair of the State Resiliency Office Board. In the absence of the chair, any member designated by the members present may act as chair.

(c) The board shall meet no less than once each calendar quarter at the time and place designated by the chair. All decisions of the board shall be decided by a majority vote of the members.
(d) The chair shall provide adequate staff from their respective office, to ensure the meetings of the board are properly noticed, meetings of the board are facilitated, board meeting minutes are taken, records and correspondence kept and that reports of the board are produced timely.

§29-30-3. Authority of State Resiliency Office; authority of board.

1 The State Resiliency Office, through its board may:

2  (1) Serve as coordinator of all economic and community resiliency planning and implementation efforts, including but not limited to flood protection programs and activities in the state;

3  (2) Annually review the state flood protection plan and update the plan no less than biannually;

4  (3) Recommend legislation to reduce or mitigate flood damage;

5  (4) Report to the Joint Legislative Committee on Flooding at least quarterly;

6  (5) Catalog, maintain and monitor a listing of current and proposed capital expenditures to reduce or mitigate flood damage or other resiliency efforts;

7  (6) Coordinate planning of flood projects with federal agencies;

8  (7) Improve professional management of flood plains;

9  (8) Provide education and outreach on flooding issues to the citizens of this state;

10  (9) Establish a single web site integrating all agency flood information;

11  (10) Monitor federal funds and initiatives that become available for disaster recovery and economic and community resiliency;

12  (11) Pursue additional funds and resources to assist not only with long term recovery efforts but also long term community and state wide resiliency efforts;

13  (12) Coordinate, integrate and expand planning efforts in the state for hazard mitigation, long-term disaster recovery and economic diversification;

14  (13) Coordinate long-term disaster recovery efforts in response to disasters as they occur;
(14) Establish and facilitate regular communication between federal, state, local and private sector agencies and organizations to further economic and disaster resilience; and (15) Take all other actions necessary and proper to effectuate the purposes of this article.

§29-30-4. Reporting to the Joint Legislative Committee on Flooding.

(a) The chair of the board of the State Resiliency Office shall report, at a minimum of quarterly, to the Joint Legislative Committee on Flooding, created pursuant to article fifteen, chapter four of this code, in sufficient detail for the committee to be aware of the activities of the board to assure progress toward reducing and mitigating flood damage within this state while respecting and complying with the Takings Clause of the United States Constitution, the West Virginia Constitution, and related precedential court opinions, and to develop legislative recommendations.

(b) The chair of the council shall submit an annual report to the committee by December 31 of each year, along with any recommended legislation, budget requests and a summary of the activities of the board for the previous year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Speaker of the House of Delegates

President of the Senate

The within is approved this the 26th day of April, 2017.

Governor