Committee Substitute
for
House Bill 4162

BY DELEGATES HANSHAW, AMBLER, KESSINGER, LYNCH,
PETHTEL AND MR. SPEAKER (MR. ARMSTEAD)

[Passed February 15, 2018; in effect ninety days from passage.]
ENROLLED

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AN ACT to amend and reenact §19-21A-4 of the Code of West Virginia, 1931, as amended, relating to the duties and powers conferred upon the State Conservation Committee; granting authority to the State Conservation Committee to contract for services directly related to natural disaster recovery and stream restoration related to flooding, on an as needed basis; permitting the State Conservation Committee to comply with present and future federal aid statutes and regulations including execution of contracts or agreements with programs of the United States government and its proper departments, bureaus or agencies relating to natural disaster response, recovery or stream restoration related to flooding; permitting the State Conservation Committee to promulgate emergency and legislative rules to effectuate the provisions as amended during the 2018 regular session of the Legislature; and removing references to outdated and incorrect code citations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21A. CONSERVATION DISTRICTS.

§19-21A-4. State Conservation Committee; continuation.

(a) The State Conservation Committee is continued. It serves as an agency of the state and is to perform the functions conferred upon it in this article. The committee consists of the following ten members:

(1) Four citizen members;
(2) The following ex officio members or his or her designee:
   (A) The Director of the state Cooperative Extension Service;
   (B) The Director of the state Agricultural and Forestry Experiment Station;
   (C) The Secretary of the Department of Environmental Protection;
   (D) The State Commissioner of Agriculture, who is the chairperson of the committee;
   (E) The Director of the Division of Forestry; and
   (F) The President of the West Virginia Association of Conservation Districts.
(b) The Governor shall appoint, by and with the consent of the Senate, the four citizen members. Members shall be appointed for four-year terms, which are staggered in accordance with the initial appointments under prior enactment of this section. In the event of a vacancy, the appointment is for the unexpired term.

(c) The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the committee as an advisory member.

(d) The committee shall keep a record of its official actions, shall adopt a seal, which shall be judicially noticed, and may perform those acts, hold public hearings and adopt or propose for legislative approval rules necessary for the execution of its functions under this article.

(e) The State Conservation Committee may employ an administrative officer, technical experts and other agents and employees, permanent and temporary, as it requires. The administrative officer and support staff shall be known as the West Virginia Conservation Agency. The committee shall determine their qualifications, duties and compensation. The committee may call upon the Attorney General of the state for legal services it requires. It may delegate to its chairperson, to one or more of its members, or to one or more agents or employees powers and duties it considers proper. The committee may secure necessary and suitable office accommodations and the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning shall, insofar as may be possible, under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee, members of the staff or personnel of the agency or institution of learning and make special reports, surveys or studies required by the committee.

(f) A member of the committee holds office so long as he or she retains the office by virtue of which he or she is serving on the committee. A majority of the committee is a quorum and the concurrence of a majority in any matter within their duties is required for its determination. The chairperson and members of the committee may receive no compensation for their services on
the committee, but are entitled to reimbursement of expenses, including traveling expenses
necessarily incurred in the discharge of their duties on the committee. The committee shall:

(1) Require the execution of surety bonds for all employees and officers who are entrusted
with funds or property;

(2) Provide for the keeping of a full and accurate public record of all proceedings and of
all resolutions, rules and orders issued or adopted; and

(3) Provide for an annual audit of the accounts of receipts and disbursements.

(g) In addition to other duties and powers conferred upon the state Conservation
Committee, it may:

(1) Offer appropriate assistance to the supervisors of conservation districts, organized as
provided in this article, in the carrying out of any of their powers and programs;

(2) Keep the supervisors of each of the several districts, organized under the provisions
of this article, informed of the activities and experience of all other districts organized under this
article and facilitate an interchange of advice and experience between the districts and
cooperation between them;

(3) Coordinate the programs of the several conservation districts so far as this may be
done by advice and consultation;

(4) Contract for services directly related to natural disaster recovery and stream restoration
related to flooding, on an as needed basis;

(5) Comply with provisions of present and future federal aid statutes and regulations,
including execution of contracts or agreements with, and cooperation in, programs of the United
States government and any of its proper departments, bureaus, or agencies relating to natural
disaster response, natural disaster recovery, or stream restoration related to flooding;

(6) Secure the cooperation and assistance of the United States and any of its agencies
and of agencies of this state in the work of the districts;
(7) Disseminate information throughout the state concerning the activities and programs of the conservation districts and encourage the formation of the districts in areas where their organization is desirable;

(8) Accept and receive donations, gifts, contributions, grants and appropriations in money, services, materials or otherwise from the United States or any of its agencies, from the State of West Virginia or from other sources and use or expend the money, services, materials or other contributions in carrying out the policy and provisions of this article, including the right to allocate the money, services or materials in part to the various conservation districts created by this article in order to assist them in carrying on their operations; and

(9) Obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise or otherwise any property, real or personal, or rights or interests in the property; maintain, administer, operate and improve any properties acquired; receive and retain income from the property and to expend the income as required for operation, maintenance, administration or improvement of the properties or in otherwise carrying out the purposes and provisions of this article; and sell, lease or otherwise dispose of any of its property or interests in the property in furtherance of the purposes and the provisions of this article. Money received from the sale of land acquired in the small watershed program shall be deposited in the special account of the state Conservation Committee and expended as provided in this article.

(10) To promulgate emergency and legislative rules to effectuate the provisions of this article as amended and reenacted by the Legislature during the 2018 regular session of the Legislature.

(11) Upon a Governor's proclamation declaring a state of emergency or federal disaster declaration, the state committee, its employees or agents may enter any water of the state for the purpose of removing debris and other obstruction which impede water flow and present additional flood hazards. The agency shall make reasonable efforts to secure the permission of the landowner before entering any private property in connection with these removal activities. The
exercise of this limited authority does not constitute taking of private property or trespass. This authority shall continue for the duration of the Governor’s proclamation or the federal disaster declaration.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 27th day of February 2018.

Governor