

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2935

BY MR. SPEAKER (MR. ARMSTEAD), HANSHAW, AMBLER,

HILL, BOGGS AND BALDWIN

[Originating in the Committee on Government

Organization; Reported March 22, 2017]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §4-15-1; and to amend said code by adding thereto a new article, designated
3 §29-30-1, §29-30-2, §29-30-3 and §29-30-4, all relating to state flood protection planning;
4 providing legislative findings; defining terms; establishing the state Flood Protection
5 Planning Council; describing certain duties; requiring reports; and establishing a Joint
6 Legislative Committee on Flooding.

Be it enacted by the Legislature of West Virginia:

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

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

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 30. STATE FLOOD PROTECTION PLAN ACT.

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

1 (a) This article may be known and cited as the “Flood Protection Planning Act”.

2 (b) The West Virginia Legislature finds that:

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

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

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

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

10 (5) Despite the many state and federal flood protection programs and projects, flooding
11 continues to be West Virginia’s most common and widespread natural disaster.

12 (c) It is the purpose of this article to provide a comprehensive and coordinated statewide
13 flood protection planning program to save lives and reduce or mitigate flood damage while
14 supporting economic growth and protecting the environment.

§29-30-2. State Flood Protection Planning Council.

1 (a) The State Flood Protection Planning Council is created. The council consists of seven
2 members: The Director of the Division of Natural Resources or his or her designee; the Secretary

3 of the Department of Environmental Protection or his or her designee; the Executive Director of
4 the State Conservation Agency or his or her designee; the Secretary of the Department of Military
5 Affairs and Public Safety or his or her designee; the Secretary of Transportation or his or her
6 designee; the Adjutant General of the West Virginia National Guard or his or her designee; and
7 the Director of the Division of Homeland Security and Emergency Management within the
8 Department of Military Affairs and Public Safety or his or her designee.

9 (b) (1) The council shall designate one of its members in rotation to be chair for a term of
10 two years. In the absence of the chair, any member designated by the members present may act
11 as chair.

12 (2) The Secretary of the Department of Military Affairs and Public Safety is designated as
13 the temporary chair and he or she shall call the members together for an organizational meeting
14 on or after the effective date of this article.

15 (c) The council shall meet no less than once each calendar quarter at the time and place
16 designated by the chair. All decisions of the council shall be decided by a majority vote of the
17 members.

18 (d) The chair shall provide adequate staff from their respective office, to ensure the
19 meetings of the council are properly noticed, meetings of the council are facilitated, council
20 meeting minutes are taken, records and correspondence kept, and that reports of the council are
21 produced timely.

§29-30-3. Authority of council.

1 The council may:

2 (1) Serve as coordinator of all flood protection programs and activities in the state;

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

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

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

7 (5) Catalog, maintain and monitor a listing of current and proposed capital expenditures
8 to reduce or mitigate flood damage;

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

10 (7) Improve professional management of flood plains;

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

12 (9) Establish a single website integrating all agency flood information; and

13 (10) 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.

1 (a) The chair of the state Flood Protection Planning Council shall report, at a minimum of
2 quarterly, to the Joint Legislative Committee on Flooding, created pursuant to article fifteen,
3 chapter four of the code, insufficient detail for the committee to be aware of the activities of the
4 council to assure progress toward reducing and mitigating flood damage within this state while
5 respecting and complying with the takings clause of the United States Constitution, the West
6 Virginia Constitution, and related precedential court opinions, and to develop legislative
7 recommendations.

8 (b) The chair of the council shall submit an annual report to the committee by December
9 31 of each year, along with any recommended legislation, budget requests, and a summary of
10 the activities of the council for the previous year.

NOTE: The purpose of this bill is to establish the state Flood Protection Planning Council and authorize certain duties; and establish a Joint Legislative Committee on Flooding.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.