

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4162

BY DELEGATES HANSHAW, AMBLER, KESSINGER, LYNCH,

PETHTEL AND MR. SPEAKER (MR. ARMSTEAD)

[Introduced January 17, 2018; Referred to the

Committee on Government Organization then the

Judiciary.]

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11 of the Legislature; and removing references to outdated and incorrect code citations.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

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

- 4 (1) Four citizen members;
- 5 (2) The following ex officio members or his or her designee:
 - 6 (A) The Director of the state Cooperative Extension Service;
 - 7 (B) The Director of the state Agricultural and Forestry Experiment Station;
 - 8 (C) The Secretary of the Department of Environmental Protection;
 - 9 (D) The State Commissioner of Agriculture, who is the chairperson of the committee;
 - 10 (E) The Director of the Division of Forestry; and
 - 11 (F) The President of the West Virginia Association of Conservation Districts.

12 (b) The Governor shall appoint, by and with the consent of the Senate, the four citizen
13 members. Members shall be appointed for four-year terms, which are staggered in accordance
14 with the initial appointments under prior enactment of this section. In the event of a vacancy, the
15 appointment is for the unexpired term.

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

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

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

34 (f) A member of the committee holds office so long as he or she retains the office by virtue
35 of which he or she is serving on the committee. A majority of the committee is a quorum and the
36 concurrence of a majority in any matter within their duties is required for its determination. The
37 chairperson and members of the committee may receive no compensation for their services on

38 the committee, but are entitled to reimbursement of expenses, including traveling expenses
39 necessarily incurred in the discharge of their duties on the committee. The committee shall:

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

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

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

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

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

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

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

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

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

61 ~~(4)~~ (6) Secure the cooperation and assistance of the United States and any of its agencies
62 and of agencies of this state in the work of the districts;

63 ~~(5)~~ (7) Disseminate information throughout the state concerning the activities and
64 programs of the conservation districts and encourage the formation of the districts in areas where
65 their organization is desirable;

66 ~~(6)~~ (8) Accept and receive donations, gifts, contributions, grants and appropriations in
67 money, services, materials or otherwise from the United States or any of its agencies, from the
68 State of West Virginia or from other sources and use or expend the money, services, materials or
69 other contributions in carrying out the policy and provisions of this article, including the right to
70 allocate the money, services or materials in part to the various conservation districts created by
71 this article in order to assist them in carrying on their operations; and

72 ~~(7)~~ (9) Obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest,
73 devise or otherwise any property, real or personal, or rights or interests in the property; maintain,
74 administer, operate and improve any properties acquired; receive and retain income from the
75 property and to expend the income as required for operation, maintenance, administration or
76 improvement of the properties or in otherwise carrying out the purposes and provisions of this
77 article; and sell, lease or otherwise dispose of any of its property or interests in the property in
78 furtherance of the purposes and the provisions of this article. Money received from the sale of
79 land acquired in the small watershed program shall be deposited in the special account of the
80 state Conservation Committee and expended as provided in this article.

81 ~~(8)~~ (10) To promulgate emergency and legislative rules to effectuate the provisions of this
82 article as amended and reenacted by the Legislature during the ~~2005~~ 2018 regular session of the
83 Legislature.

84 ~~(9)~~ (11) Upon a Governor's proclamation declaring a state of emergency or federal
85 disaster declaration, the state committee, its employees or agents may enter any water of the
86 state for the purpose of removing debris and other obstruction which impede water flow and
87 present additional flood hazards. The agency shall make reasonable efforts to secure the
88 permission of the landowner before entering any private property in connection with these removal

89 activities. The exercise of this limited authority does not constitute taking of private property or
90 trespass. This authority shall continue for the duration of the Governor's proclamation or the
91 federal disaster declaration.

92 ~~(10) The State Conservation Committee is continued until July 1, 2012, pursuant to the~~
93 ~~provisions of article four, chapter ten of the Code of West Virginia, unless sooner terminated,~~
94 ~~continued or reestablished pursuant to the provisions of that article.~~

NOTE: The purpose of this bill is to grant the State Conservation Committee the authority to enter into contracts for flood response, recovery and streambank restoration work and to maximize federal dollars by collaborating with federal agencies responding to flood events.

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

This bill was recommended for introduction and passage during the 2018 Regular Session of the Legislature by the Joint Committee on Flooding.