

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 655

BY SENATOR TRUMP

[Introduced February 18, 2019; Referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §19-21A-3 and §19-21A-4 of the Code of West Virginia, 1931, as
2 amended, all relating to conservation districts generally; clarifying the authority of the State
3 Conservation Committee to operate and administer a conservation grant program;
4 providing financial assistance to conservation districts and others to promote approved
5 conservation practices; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21A. CONSERVATION DISTRICTS.

§19-21A-3. Definitions.

1 Wherever used or referred to in this article, unless a different meaning clearly appears
2 from the context:

3 (1) "Agency of this state" means the government of this state and any subdivision, agency,
4 or instrumentality, corporate or otherwise, of the government of this state.

5 (2) "Committee" or "State Conservation Committee" means the agency created in §19-
6 21A-4 of this code.

7 (3) "District" or "conservation district" means a subdivision of this state, organized in
8 accordance with the provisions of this article, for the purposes, with the powers and subject to the
9 restrictions hereinafter set forth.

10 (4) "Grant" means the providing of grants for conservation purposes pursuant to legislative
11 rule.

12 ~~(4)~~ (5) "Governing body" means the supervisors of any conservation district, town or city,
13 council, city commission, county court, or body acting in lieu of a county court, in this state, and
14 the term "governmental division" means any conservation district, town, city, or county in this
15 state.

16 ~~(5)~~ (6) "Land occupier" or "occupier of land" means any person, firm, or corporation who
17 shall hold title to, or shall be in possession of, any lands lying within a district organized under the
18 provisions of this article, whether as owner, lessee, renter, or tenant.

19 ~~(6)~~ (7) “Landowners” or “owners of land” means any person or persons, firm, or corporation
20 who holds title to any lands lying within a district organized under the provisions of this article.

21 ~~(7)~~ (8) “Notice” means notice published as a Class II legal advertisement in compliance
22 with the provisions of §59-3-1 *et seq.*, of this code and the publication area for ~~such~~ the publication
23 ~~shall be~~ is the county in which is located the appropriate area. At any hearing held pursuant to
24 such notice at the time and place designated in ~~such~~ the notice, adjournment may be made, from
25 time to time, without the necessity of renewing ~~such~~ the notice for ~~such~~ the adjournment dates.

26 ~~(8)~~ (9) “Petition” means a petition filed under the provisions of §19-21A-5(a) of this code
27 for the creation of a district.

28 ~~(9)~~ (10) “Soil conservation”, “erosion control”, or “erosion prevention projects” means those
29 projects that have been established by federal agencies in cooperation with state agencies for
30 the purpose of demonstrating soil erosion control and water conservation practices.

31 ~~(10)~~ (11) “State” means the State of West Virginia.

32 ~~(11)~~ (12) “Supervisor” means one of the members of the governing body of a district,
33 elected or appointed in accordance with the provisions of this article.

34 ~~(12)~~ (13) “United States” or “agencies of the United States” means the United States of
35 America, Natural Resources Conservation Service of the United States Department of Agriculture,
36 and any other agency or instrumentality, corporate or otherwise, of the United States of America.

37 ~~(13)~~ (14) “Works of improvement” means such structures as may be necessary or
38 convenient for flood prevention or the conservation, development, utilization, or disposal of water.

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

66 (8) Administer a conservation grant program that provides financial assistance to
67 conservation districts and others to promote approved conservation projects;

68 ~~(8)~~ (9) Accept and receive donations, gifts, contributions, grants, and appropriations in
69 money, services, materials, or otherwise from the United States or any of its agencies, from the
70 State of West Virginia, or from other sources and use or expend the money, services, materials,
71 or other contributions in carrying out the policy and provisions of this article, including the right to
72 allocate the money, services, or materials in part to the various conservation districts created by
73 this article in order to assist them in carrying on their operations; and

74 ~~(9)~~ (10) Obtain options upon and acquire by purchase, exchange, lease, gift, grant,
75 bequest, devise, or otherwise any property, real or personal, or rights or interests in the property;
76 maintain, administer, operate, and improve any properties acquired; receive and retain income
77 from the property and to expend the income as required for operation, maintenance,
78 administration, or improvement of the properties or in otherwise carrying out the purposes and
79 provisions of this article; and sell, lease, or otherwise dispose of any of its property or interests in
80 the property in furtherance of the purposes and the provisions of this article. Money received from
81 the sale of land acquired in the small watershed program shall be deposited in the special account
82 of the State Conservation Committee and expended as provided in this article.

83 ~~(10)~~ (11) To promulgate emergency and legislative rules to effectuate the provisions of

84 this article as amended and reenacted by the Legislature during the 2018 regular session of the
85 Legislature.

86 ~~(11)~~ (12) Upon a Governor's proclamation declaring a state of emergency or federal
87 disaster declaration, the state committee, its employees or agents may enter any water of the
88 state for the purpose of removing debris and other obstruction which impede water flow and
89 present additional flood hazards. The agency shall make reasonable efforts to secure the
90 permission of the landowner before entering any private property in connection with these removal
91 activities. The exercise of this limited authority does not constitute taking of private property or
92 trespass. This authority shall continue for the duration of the Governor's proclamation or the
93 federal disaster declaration.

NOTE: The purpose of this bill is to clarify that the State Conservation Committee may operate and administer a conservation grant program providing financial assistance to conservation districts and others to promote approved conservation practices.

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