

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 281

By Senator Tarr

[Introduced January 18, 2023; referred
to the Committee on Agriculture and Natural
Resources]

1 A BILL to amend and reenact §19-12A-5 of the Code of West Virginia, 1931, as amended, by
 2 precluding the Department of Agriculture from cancellation of certain leases; removing
 3 language allowing cancellation of any lease which the Department of Agriculture is a party
 4 and the consideration is less than five dollars an acre; and making technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12A. LAND DIVISION.
§19-12A-5. Powers, duties, and responsibilities of commissioner.

1 (a) The commissioner shall manage all institutional farms, equipment, and other property
 2 to most efficiently produce food products for state institutions, support the department and its
 3 activities, advance the agricultural interests of the state, as identified by the commissioner, and
 4 otherwise implement the intent of the Legislature as set forth by this article. From the total amount
 5 of food, milk, and other commodities produced on institutional farms, the commissioner shall sell,
 6 at prevailing wholesale prices, and each of the institutions under the control of the Department of
 7 Health and Human Resources and Division of Corrections and Rehabilitation shall purchase,
 8 these products based on the dietary needs of each institution: *Provided*, That if the commissioner
 9 cannot sell sufficient food products to each institution to meet the demand created, each institution
 10 may purchase such food products from vendors who can supply those food products at the
 11 greatest savings to the taxpayers of the state.

12 (b) If requested by the Commissioner of the Division of Corrections and Rehabilitation, the
 13 commissioner may authorize the Division of Corrections and Rehabilitation to operate a farm or
 14 other enterprise using inmates as labor on those lands. The Commissioner of the Division of
 15 Corrections and Rehabilitation is responsible for the selection, direction, and supervision of the
 16 inmates and shall, in consultation with the Commissioner of Agriculture, assign the work to be
 17 performed by inmates. The Commissioner of Agriculture may also request inmate labor to perform
 18 work on the institutional farms, and if requested, the Commissioner of the Division of Corrections
 19 and Rehabilitation shall provide inmate labor, if available.

20 (c) The commissioner is hereby authorized and empowered to:

21 (1) Lease to public or private parties, for purposes including agricultural production or
22 experimentation, public necessity, or other purposes, any land, easements, equipment, or other
23 property, except that property may not be leased for any use in any manner that would render the
24 land toxic for agricultural use, nor may toxic or hazardous materials as identified by the
25 Commissioner of Agriculture be used or stored upon such property unless all applicable state and
26 federal permits necessary are obtained.;

27 (2) Transfer to the public land corporation land designated in its management plan as land
28 to be disposed of, which land shall be sold, exchanged, or otherwise transferred pursuant to §5A-
29 11-4 and §5A-11-5 of this code;

30 (3) Develop lands to which it has title for the public use including forestation, recreation,
31 wildlife, stock grazing, agricultural production, rehabilitation, and/or other conservation activities
32 and may contract or lease for the proper development of timber, oil, gas, or mineral resources,
33 including coal by underground mining or by surface mining where reclamation as required by
34 specifications of the Department of Environmental Protection will increase the beneficial use of
35 such property; and

36 ~~(4) Upon 30 days written notice to the lessee, cancel a lease to which the department is a~~
37 ~~party and which is for annual consideration of less than \$5 per acre: *Provided*, That such lease~~
38 ~~must contain a provision authorizing cancellation or impairment by the Legislature; and~~

39 ~~(5)~~ (4) Exercise all other powers and duties necessary to effectuate the purposes of this
40 article.

41 (d) Notwithstanding the provisions of subsection (c) of this section, no timberland may be
42 leased, sold, exchanged, or otherwise disposed of unless there is no commercially salable timber
43 on the timberland, an inventory is provided, and an appraisal of the timber is provided.

44 (e) The commissioner may promulgate, pursuant to §29-1-1 *et seq.* of this code, rules and
45 regulations relating to the powers and duties of the commissioner as enumerated in this section.

NOTE: The purpose of this bill is to preclude the Department of Agriculture from cancellation of certain leases; remove language allowing cancellation of any lease which the Department of Agriculture is a party and the consideration is less than five dollars and acre; and make technical corrections.

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