

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Originating

Senate Bill 941

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AND GARCIA

[Originating in the Committee on Energy, Industry,
and Mining; reported March 29, 2025]

1 A BILL to amend and reenact §19-21A-8 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying certain authority regarding dams designed by the U.S. Conservation Service.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21A. CONSERVATION DISTRICTS.

§19-21A-8. Powers and duties of conservations districts and supervisors.

1 A conservation district organized under the provisions of this article and the supervisors
2 thereof shall have the following powers and duties, in addition to others granted in other sections
3 of this article:

4 (1) To hold public meetings, to conduct surveys, investigations, and research relating to
5 the character of soil erosion, floodwater and sediment damage, and nonpoint source water
6 pollution, and to the conservation, development, utilization, water quality, disposal of water, and
7 the preventive and control measures needed to publish the results of such surveys, investigations,
8 or research, and to disseminate information concerning such preventive and control measures
9 and works of improvement to the public: *Provided*, That in order to avoid duplication of research
10 activities, ~~no a district shall~~ may not initiate any research program or publish the results except
11 with the approval of the state committee and in cooperation with the government of this state or
12 any of its agencies, or with the United States or any of its agencies: *Provided, however, That any*
13 alteration, improvement, or agreement related to a dam owned or sponsored by a local
14 conservation district is subject solely to the authority of the Department of Environmental
15 Protection. The provisions of this subsection may not be construed to affect or alter any state or
16 federal funding to the West Virginia Conservation Agency;

17 (2) To conduct demonstrational projects within the district on lands owned or controlled by
18 this state or any of its agencies, with the consent and cooperation of the agency administering
19 and having jurisdiction thereof, and on any other lands within the district upon obtaining the
20 consent of the owner and occupier of the lands or the necessary rights or interests in the lands in

order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved and soil erosion in the form of soil washing may be prevented and controlled, water quality may be improved, and works of improvement may be carried out;

(3) To carry out preventive and control measures and works of improvement within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land; drainage, irrigation, and other agricultural water management operations and measures for the prevention of floodwater and sediment damages, or for the control and abatement of nonpoint sources of water pollution; and the measures listed in §19-21A-2 of this code on lands owned or controlled by this state or any of its agencies with the consent and cooperation of the agency administering and having jurisdiction thereof and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of erosion-control and prevention operations, operations for the control and abatement of nonpoint sources of water pollution, and works of improvement within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this article;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to institute condemnation proceedings to acquire any property, real or personal, or rights or interests therein, whether or not located in the district, required for works of improvement; to maintain, administer, and improve any properties acquired, to receive income from such properties, and to expend such income in carrying out the purposes and provisions of this article; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this article;

47 (6) To accept and receive donations, gifts, contributions, grants, and appropriations in
48 money, services, materials, or otherwise from the United States or any of its agencies, from the
49 state of West Virginia, or from other sources and use or expend the money, services, materials,
50 or other contributions in carrying out the policy and provisions of this article;

51 (7) To make available, on such terms as it shall prescribe, to land occupiers within the
52 district, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings,
53 and such other material or equipment as will assist such land occupiers to carry on operations
54 upon their lands for the conservation of soil resources, and for the prevention and control of soil
55 erosion, and for flood prevention or the conservation, development, utilization, water quality, and
56 disposal of water;

57 (8) To construct, improve, operate, and maintain such structures as may be necessary or
58 convenient for the performance of any of the operations authorized in this article;

59 (9) To develop and submit to the state committee its proposed long range program and
60 annual work plans related to the conservation of soil resources, and for the control and prevention
61 of soil erosion, and for flood prevention and water quality improvement, or the conservation,
62 development, utilization, and disposal of water within the district. The plans shall specify, in as
63 much detail as may be possible, the acts, procedures, performances, and avoidances which are
64 necessary or desirable for the effectuation of such plans, including the specification of engineering
65 operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices,
66 and changes in use of land; and to publish such plans and information and bring them to the
67 attention of occupiers of lands within the district;

68 (10) To take over, by purchase, lease, or otherwise, and to administer any soil-
69 conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or
70 erosion-prevention project, or combinations thereof, located within its boundaries, undertaken by
71 the United States or any of its agencies, or by this state or any of its agencies; to manage, as
72 agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-

conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to accept donations, gifts, contributions, and grants in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source and to use or expend such money, services, materials, or other contributions in carrying on its operations;

(11) To sue and be sued in the name of the district; to have a seal, which shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make and, from time to time, amend and repeal rules and regulations not inconsistent with this article to carry into effect its purposes and powers;

(12) As a condition to extending any benefits under this article to, or the performance of work upon any lands, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion and prevent floodwater and sediment damage thereon;

(13) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder in its acquisition, operation, and disposition of property unless the Legislature shall specifically so state;

(14) To enter into contracts and other arrangements with agencies of the United States, with persons, firms, or corporations, including public and nonprofit corporations, with the state government of this state or other states, or any department or agency thereof, with governmental divisions, with soil conservation, drainage, flood control, soil erosion, or other improvement

99 districts in this state or other states, for cooperation or assistance in constructing, improving,
100 operating, or maintaining works of improvement within the district, or in preventing floods, or in
101 conserving, developing, utilizing, and disposing of water in the district, or for making surveys,
102 investigations, or reports thereof; and to obtain options upon and acquire property, real or
103 personal, or rights or interests therein, in other districts or states required for flood prevention and
104 water quality improvement, or the conservation, development, utilization, and disposal of water
105 within the district and to construct, improve, operate, or maintain thereon or therewith works of
106 improvement.

107 (15) Each district shall, through public meetings, publications, or other means, keep the
108 public, agencies, and occupiers of the land within the district informed of the works and activities
109 planned and administered by the district, of the purposes these will serve, and of the results
110 achieved annually by the districts.