

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Enrolled  
Committee Substitute**

**for**

### **Senate Bill 344**

SENATORS CARMICHAEL (MR. PRESIDENT), PREZIOSO,  
AND CLINE, *original sponsors*

[Passed March 5, 2019; in effect from passage]

OFFICE - WEST VIRGINIA  
SECRETARY OF STATE

2019 MAR 26 P 5:58

FILED

SB344

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1 AN ACT to repeal §19-12A-3, §19-12A-7, and §19-12A-8 of the Code of West Virginia, 1931, as  
2 amended; and to amend and reenact §19-12A-1, §19-12A-2, §19-12A-5, and §19-12A-6  
3 of said code, all relating to the operation of state-owned farms; clarifying that state-owned  
4 farms are managed by the Commissioner of the Department of Agriculture; removing  
5 reference to Farm Management Commission; defining terms; removing language  
6 regarding organization and duties of Farm Management Commission; expanding  
7 permissive uses and purposes of institutional farms; replacing outdated language  
8 referencing to the Department of Health and Human Resources and Division of  
9 Corrections and Rehabilitation; authorizing Commissioner of Agriculture to request inmate  
10 labor on institutional farms; providing that state institutions may purchase items from  
11 vendors that state-owned farms cannot provide; removing references to Farm  
12 Management Director and replacing with commissioner; and removing outdated language.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 12A. LAND DIVISION.**

**§19-12A-1. Legislative findings and declarations.**

1 The Legislature hereby finds and declares that in order to ensure economic and efficient  
2 land use, increase and improve agricultural production, and provide food for residents of state  
3 operated institutions, state-owned farms should operate under the control of the Commissioner  
4 of Agriculture. The Legislature also finds and declares that the operation of all institutional farms  
5 under one management system with a single integrated farm plan is the most efficient method of  
6 providing the food needs of residents of state-operated institutions and will promote the health  
7 and welfare of all citizens of this state.

**§19-12A-2. Definitions.**

1 For the purpose of this article:  
2 “Agricultural products” means livestock and livestock products, poultry and poultry  
3 products, fruits and fruit products, vegetables and vegetable products, grains and hays and the

4 products derived therefrom, tobacco, syrups, honey, and other products derived from the  
5 business of farming; including such other products as may be manufactured, derived, or prepared  
6 from agricultural products, raw or processed, which are used as food for man or animals.

7 “Commission” means the Farm Management Commission as established by this article.

8 “Commissioner” means the Commissioner of Agriculture, or his or her designee.

9 “Department” means the Department of Agriculture.

10 “Farm equipment” means any equipment used for agricultural production.

11 “Farm facility” means any processing plant, milking parlor, farm equipment storage  
12 building, barn, silo, grain storage building, swinery, or any other building owned by an institution  
13 used in its farming operations.

14 “Institution” means any facility operated by the Department of Health and Human  
15 Resources or the Division of Corrections and Rehabilitation.

16 “Institutional farm” means any land which was formerly operated as a farm, is now being  
17 operated as a farm, or could be converted to agricultural production.

**§19-12A-3. Farm management commission continued; composition; chairman; quorum;  
meetings; vacancies.**

1 [Repealed.]

**§19-12A-5. Powers, duties, and responsibilities of commissioner.**

1 (a) The commissioner shall manage all institutional farms, equipment, and other property  
2 in order to most efficiently produce food products for state institutions, support the department  
3 and its activities, advance the agricultural interests of the state, as identified by the commissioner,  
4 and otherwise implement the intent of the Legislature as set forth by this article. From the total  
5 amount of food, milk, and other commodities produced on institutional farms, the commissioner  
6 shall sell, at prevailing wholesale prices, and each of the institutions under the control of the  
7 Department of Health and Human Resources and Division of Corrections and Rehabilitation shall  
8 purchase, these products based on the dietary needs of each institution: *Provided*, That if the

9 commissioner cannot sell sufficient food products to each institution to meet the demand created,  
10 each institution may purchase such food products from vendors who can supply those food  
11 products at the 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. Any lease for an annual consideration of \$1,000 or more  
27 shall be by sealed bid auction and the commission shall give notice of such auction by publication  
28 thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of  
29 this code, and the publication area for such publication is the county in which the property to be  
30 leased is located;

31 (2) Transfer to the public land corporation land designated in its management plan as land  
32 to be disposed of, which land shall be sold, exchanged, or otherwise transferred pursuant to §5A-  
33 11-4 and §5A-11-5 of this code;

34 (3) Develop lands to which it has title for the public use including forestation, recreation,  
35 wildlife, stock grazing, agricultural production, rehabilitation and/or other conservation activities  
36 and may contract or lease for the proper development of timber, oil, gas, or mineral resources,  
37 including coal by underground mining or by surface mining where reclamation as required by  
38 specifications of the Department of Environmental Protection will increase the beneficial use of  
39 such property. Any such contract or lease shall be by sealed bid auction as provided for in  
40 subdivision (1) of this subsection; and

41 (4) Exercise all other powers and duties necessary to effectuate the purposes of this  
42 article.

43 (d) Notwithstanding the provisions of subsection (c) of this section, no timberland may be  
44 leased, sold, exchanged, or otherwise disposed of unless there is no commercially salable timber  
45 on the timberland, an inventory is provided, an appraisal of the timber is provided, and the sale,  
46 lease, exchange, or other disposition is accomplished by the sealed bid auction procedure  
47 provided above in subdivision (1) or (2), subsection (c) of this section as applicable.

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

**§19-12A-6. Commissioner's powers and duties.**

1 The commissioner or his or her designee is responsible for conducting the operations of  
2 the farms and shall:

3 (1) Prepare an annual report of the farming operations, including a listing of all receipts  
4 and expenditures and shall present it to the Legislature at the end of each fiscal year.

5 (2) Prepare the annual budget request for the operation of the institutional farms.

6 (3) Receive and approve all requisitions for farm supplies and equipment.

7 (4) Supervise the operation of all canneries and determine what foods are to be canned.

8 (5) Recruit and approve assistant farm managers to supervise each institutional farm.

9           (6) Transfer farm supplies, farm equipment, farm facilities, food stuffs, and produce from  
10 one institutional farm to another to promote efficiency and improve farm management.

11           (7) Rent or lease additional land for farm use.

12           By September 30 each year, each institution under the control of the Department of Health  
13 and Human Resources and the Division of Corrections and Rehabilitation shall present to the  
14 commissioner a purchase order for its food requirements during the next fiscal year as determined  
15 by the institution. If, during the year, an institution finds that it needs other or additional food, milk,  
16 or commodities not included in its purchase order for the year, the institutional superintendent  
17 may forward a supplemental request to the commissioner, which order may be filled depending  
18 on availability. If institutional farms produce more food, milk, and other commodities than can be  
19 sold to the institutions, the commissioner may sell the surplus to other state agencies willing to  
20 purchase. If any surplus remains after sales to other state agencies, the commissioner may sell  
21 the surplus on the open market or turn over any surplus food products to appropriate public,  
22 nonprofit agencies.

**§19-12A-7. Farm division lines to be established; appeal to commission; remedy.**

1           [Repealed.]

**§19-12A-8. Effect of management plan on employees.**

1           [Repealed.]

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled .

*Mark R. Thompson*  
.....  
Chairman, Senate Committee

*Robert C. Loefer*  
.....  
Chairman, House Committee

Originated in the Senate.

In effect from passage.

FILED  
2019 MAR 26 P 5:58  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

*Joe Lamm*  
.....  
Clerk of the Senate

*Stephanie D. Harrison*  
.....  
Clerk of the House of Delegates

*Walter B. Lamm*  
.....  
President of the Senate

*Les Hinkle*  
.....  
Speaker of the House of Delegates

The within is approved ..... this the 21<sup>st</sup> .....  
Day of March ....., 2019.

*James E. Cantor*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2019

Time 3:33 pm