

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

### Enrolled Senate Bill 655

BY SENATOR TRUMP

[Passed March 7, 2019; in effect 90 days from passage]

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2019 MAR 25 P 5:04

FILED

SB 655

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1 AN ACT 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 (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 (6) “Land occupier” or “occupier of land” means any person, firm, or corporation who shall  
17 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 (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 (8) "Notice" means notice published as a Class II legal advertisement in compliance with  
22 the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication is the  
23 county in which is located the appropriate area. At any hearing held pursuant to such notice at  
24 the time and place designated in the notice, adjournment may be made, from time to time, without  
25 the necessity of renewing the notice for the adjournment dates.

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

28 (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 (11) "State" means the State of West Virginia.

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

34 (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 (14) "Works of improvement" means such structures as may be necessary or convenient  
38 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 (9) Accept and receive donations, gifts, contributions, grants, and appropriations in money,  
69 services, materials, or otherwise from the United States or any of its agencies, from the State of  
70 West Virginia, or from other sources and use or expend the money, services, materials, or other  
71 contributions in carrying out the policy and provisions of this article, including the right to allocate  
72 the money, services, or materials in part to the various conservation districts created by this article  
73 in order to assist them in carrying on their operations; and

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

83           (11) To promulgate emergency and legislative rules to effectuate the provisions of this  
84 article as amended and reenacted by the Legislature during the 2018 regular session of the  
85 Legislature.

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



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

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

*Mark Lajtha*  
.....  
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

*Joe Lavin*  
.....  
Clerk of the Senate

*Steve Harrison*  
.....  
Clerk of the House of Delegates

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

*Ray Haskin*  
.....  
Speaker of the House of Delegates

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

2019 MAR 25 P 5:04

FILED

The within *is* approved this the *25<sup>th</sup>*  
Day of *March* ..... 2019.

*James Owens*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2019

Time 3:33pm