

224.18-780 Tennessee River Basin Water Pollution Control Compact.

The Tennessee River Basin Water Pollution Control Compact is enacted and entered into by the Commonwealth of Kentucky as a party and is of full force and effect as between the Commonwealth of Kentucky and any other state of the Tennessee River Basin Water Pollution Control District that has entered into the compact. The compact is as follows:

ARTICLE I

The purpose of this Compact is to promote effective control and reduction of pollution in the waters of the Tennessee River Basin through increased cooperation of the states of the Basin, coordination of pollution control activities and programs in the Basin, and the establishment of a joint interstate commission to assist in these efforts.

ARTICLE II

The party states hereby create the "Tennessee River Basin Water Pollution Control Commission," hereinafter referred to as the "Commission," which shall be an agency of each party state with the powers and duties set forth herein, and such others as shall be conferred upon it by the party states or by the Congress of the United States concurred in by the party states.

ARTICLE III

A. The party states hereby create the "Tennessee River Basin Water Pollution Control District," hereinafter called the "District," which consists of the area drained by the Tennessee River and its tributaries.

B. From time to time the Commission may conduct surveys of the Basin, study the pollution problems of the Basin, and make comprehensive reports concerning the prevention or reduction of water pollution therein. The Commission may draft and recommend to the parties hereto suggested legislation dealing with the pollution of waters within the Basin or any portion thereof. Upon request of a state water pollution control agency, and in a manner agreed upon by such agency and the Commission, the Commission shall render advice concerning the various governments, communities, municipalities, persons, corporations or other entities with regard to particular problems connected with the pollution of waters. The Commission shall present to the appropriate officials of any government or agency thereof its recommendations relating to enactments to be made by any legislature in furthering the intents and purposes of this Article. The Commission, upon request of a member state or upon its own instance may, after proper study, and after conducting public hearings, recommend minimum standards of water quality to be followed in the several areas of the District.

ARTICLE IV

The Commission shall consist of three Commissioners from each state, each of whom shall be a resident voter of such state. The Commissioners shall be chosen in the manner and for the terms provided by the laws of the state from which they are appointed, and each Commissioner may be removed or suspended from office as provided by the law of the state from which he is appointed.

ARTICLE V

A. The Commission shall elect annually from its members a Chairman and a Vice Chairman to serve at its pleasure. It shall adopt a seal and suitable bylaws for

its management and control. The Commission is hereby authorized to adopt, prescribe and promulgate rules and regulations for administering and enforcing all provisions of this Compact. It may maintain one or more offices for the transaction of its business. Meetings shall be held at least once each year. It may determine duties, qualifications and compensation for and appoint such employees and consultants as may be necessary and remove or replace them.

B. The Commission shall not compensate the Commissioners for their services but shall pay their actual expenses incurred in and incidental to the performance of their duties.

C. The Commission may acquire, by gift or otherwise, and may hold and dispose of such real and personal property as may be appropriate to the performance of its functions. In the event of sale of real property, proceeds may be distributed among the several party states, each state's share being computed in a ratio to its contributions; and in the event of dissolution of the Commission, the property and assets shall be disposed of and proceeds distributed in a like manner.

D. Each Commissioner shall have one vote. One or more Commissioners from a majority of the party states shall constitute a quorum for the transaction of business, but no action of the Commission imposing any obligation on any party state or any municipality, person, corporation or other entity therein shall be binding unless a majority of all of the members from such party state shall have voted in favor thereof. The Commission shall keep accurate accounts of all receipts and disbursements, and shall submit to the Governor and the legislature of each party state an annual report concerning its activities, and shall make recommendations for any legislative, executive or administrative action deemed advisable.

E. The Commission shall at the proper time submit to the Governor of each party state for his approval an estimate of its proposed expenditures. The Commission shall subsequently adopt a budget and submit appropriation requests to the party states in accordance with the laws and procedures of such states.

F. The Commission shall not pledge the credit of any of the party states. The Commission may meet any of its obligations in whole or in part with funds available to it, from gifts, grants, appropriations or otherwise, provided that the Commission takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Commission makes use of funds already available to it, the Commission shall not incur any obligations prior to the making of appropriations adequate to meet the same.

G. The accounts of the Commission shall be open at any reasonable time to the inspection of such representatives of the respective party states as may be duly constituted for that purpose. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become a part of the annual report of the Commission. The Commission shall appoint an Executive Director. The Commission shall also appoint a Treasurer who may be a member of the Commission. The Executive Director shall be custodian of the records of the Commission with authority to attest to and certify such records and copies thereof under the seal of the Commission. The Commission shall require bonds of its Executive Director and Treasurer in the amount of at least twenty-five percent (25%) of the annual budget of the Commission.

ARTICLE VI

Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. In determining these amounts, the Commission shall prorate one-half (1/2) of its budget among the several states in proportion to their land area within the District, and shall prorate the other half among the several states in proportion to their population within the District at the last preceding Federal census.

ARTICLE VII

A. It is recognized, owing to such variable factors as location, size, character and flow and the many varied uses of the waters subject to the terms of this Compact, that no single standard of sewage and waste treatment and no single standard of quality of receiving waters is practical and that the degree of treatment of sewage and industrial wastes should take into account the classification of the receiving waters according to present and proposed highest use, such as for drinking water supply, industrial and agricultural uses, bathing and other recreational purposes, maintenance and propagation of fish life, navigation and disposal of wastes.

B. The Commission may establish reasonable physical, chemical and bacteriological standards of water quality satisfactory for various classifications of use. It is agreed that each of the signatory states through appropriate agencies will prepare a classification of its interstate waters in the District in entirety or by portions according to present and proposed highest use, and for this purpose technical experts employed by appropriate state water pollution control agencies are authorized to confer on questions relating to classification of interstate waters affecting two (2) or more states. Each signatory state agrees to submit its classification of its interstate waters to the Commission for approval. It is agreed that after such approval, all signatory states through their appropriate state water pollution control agencies will work to establish programs of treatment of sewage and industrial wastes which will meet standards established by the Commission for classified waters. The Commission may from time to time make such changes in definitions of classifications and in standards as may be required by changed conditions or as may be necessary for uniformity and in a manner similar to that in which these standards and classifications were originally established.

ARTICLE VIII

A. A state pollution control agency of any party state may certify to the Commission an alleged violation of the Commission's standards of quality of water entering said state. Upon such certification the Commission may call a hearing at which the appropriate state pollution agencies shall be represented. If the Commission finds a violation has occurred, is occurring or is likely to recur, it shall make recommendations as to the manner of abatement of the pollution to the appropriate water pollution control agency of the party state within which the violation has occurred, is occurring or is likely to recur. In the event that Commission recommendations made pursuant to the preceding provisions of this Article do not result in compliance within a reasonable time, the Commission may, after such further investigation if any as is deemed necessary and proper and after a hearing held in the state where a violation occurs or has occurred, issue an order or orders upon any municipality, person, corporation or other entity within said party state

violating provisions of this Compact by discharging sewerage or industrial wastes into the waters of the District which flow through, into or border upon any party state. Such order or orders may prescribe the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of. The Commission shall give reasonable and proper notice in writing of the time and place of the hearing to the municipality, person, corporation or other entity against which such order is proposed except that when the Commission shall find that a public health emergency exists, it may issue such an order pending hearing. In all such instances, the hearing shall be promptly held and the order shall be withdrawn, modified or made permanent within thirty days after hearing. No order prescribing the date on or before which such discharge shall be wholly or partially discontinued, modified or treated or otherwise disposed of shall go into effect upon a municipality, person, corporation or other entity in any state unless and until it receives the approval of a majority of the Commissioners from each of not less than a majority of the party states, provided that such order receives the assent of not less than a majority of the Commissioners from such state.

B. It shall be the duty of the municipality, person, corporation or other entity within a party state to comply with any such order against it or him by the Commission, and any court of competent jurisdiction in any of the party states shall have jurisdiction, by mandamus, injunction, specific performance or other form of remedy, to enforce any such order against any municipality, person, corporation or other entity domiciled, located or doing business within such state; provided, however, such court may review the order and affirm, reverse or modify the same in any appropriate proceeding brought and upon any of the grounds customarily applicable in proceedings for court review of administrative decisions. The Commission or, at its request, the Attorney General or other law enforcing official of the appropriate state shall have power to institute in such court any action for the enforcement of such order.

ARTICLE IX

Nothing in this Compact shall be construed to limit the powers of any party state, or to repeal or prevent the enactment of any legislation, or the enforcement of any requirement by any party state, imposing any additional conditions and restrictions to further reduce or prevent the pollution of waters within its jurisdiction.

ARTICLE X

A. Nothing contained in this Compact shall be construed so as to conflict with any provision of the Ohio River Valley Water Sanitation Compact or to impose obligations on any state inconsistent with those which it has undertaken or may undertake by virtue of its membership in said Compact; provided that nothing contained in this Article shall be deemed to limit the Commission's power to set higher standards for the waters of the Tennessee River Basin Water Pollution Control District or any portion thereof than those required for the Ohio River Valley Water Sanitation District.

B. Nothing contained in this Compact shall be deemed to give the Commission any regulatory power or jurisdiction over any aspect of pollution abatement or control within the District unless existing or future pollution of such waters does or is likely to affect adversely the quality of water flowing among, between, into or through the territory of more than one party state.

ARTICLE XI

Any two (2) or more of the party states by legislative action may enter into supplementary agreements for further regulation and abatement of water pollution in other areas within the party states and for the establishment of common or joint services or facilities for such purpose and designate the Commission to act as their joint agency in regard thereto. Except in those cases where all member states join in such supplementary agreement and designation, the representatives in the Commission of any group of such designating states shall constitute a separate section of the Commission for the performance of the function or functions so designated and with such voting rights for these purposes as may be stipulated in such agreement; provided that, if any additional expense is involved, the member states so acting shall appropriate the necessary funds for this purpose. No supplementary agreement shall be valid to the extent that it conflicts with the purposes of this Compact and the creation of such a section as a joint agency shall not affect the privileges, powers, responsibilities or duties of the member states participating therein as embodied in the other articles of this Compact.

ARTICLE XII

This Compact shall enter into force and become effective and binding when it has been enacted by the legislature of Tennessee and by the legislatures of any one or more of the states of Alabama, Georgia, Kentucky, Mississippi, North Carolina and Virginia and upon approval by the Congress of the United States and thereafter shall enter into force and become effective and binding as to any other of said states when enacted by the legislature thereof.

ARTICLE XIII

This Compact shall continue in force and remain binding upon each party state until renounced by act of the legislature of such state, in such form and manner as it may choose; provided that such renunciation shall not become effective until six (6) months after the effective date of the action taken by the legislature. Notice of such renunciation shall be given to the other party states by the Secretary of State of the party state so renouncing upon passage of the act.

ARTICLE XIV

The provisions of this Compact or of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this Compact, or such agreement, is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any state, agency, person or circumstance is held invalid, the constitutionality of the remainder of this Compact or of any agreement thereunder and the applicability thereof to any state, agency, person or circumstance shall not be affected thereby, provided further that if this Compact or any agreement thereunder shall be held contrary to the Constitution of the United States or of any state participating therein, the Compact or any agreement thereunder shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. It is the legislative intent that the provisions of this Compact shall be reasonably and liberally construed.

History: Created 1958 Ky. Acts ch. 44, sec. 1.

Formerly codified as KRS 224.195, and also previously codified as KRS 220.551.