

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 460**

4 (By Senators Laird, Williams, D. Facemire and Fanning)

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6 [Originating in the Committee on Natural Resources;  
7 reported February 17, 2011.]  
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9  
10 A BILL to amend and reenact §15-10-3 of the Code of West Virginia,  
11 1931, as amended; to amend and reenact §19-1A-4 of said code;  
12 and to amend and reenact §20-7-1 of said code, all relating to  
13 clarifying that Division of Forestry natural resources police  
14 officers are under the control and direction of the Director  
15 of the Division of Forestry; permitting the director to enter  
16 into memorandums of understanding with other law-enforcement  
17 agencies; and clarifying the duties of the director.

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

19 That §15-10-3 of the Code of West Virginia, 1931, as amended,  
20 be amended and reenacted; that §19-1A-4 of said code be amended and  
21 reenacted; and that §20-7-1 of said code be amended and reenacted,  
22 all to read as follows:

23 **ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

24 **§15-10-3. Definitions.**

25 For purposes of this article only, and unless a different  
26 meaning plainly is required:

27 (1) "Criminal justice enforcement personnel" means those

1 persons within the state criminal justice system who are actually  
2 employed as members of the State Police, members of the Division of  
3 Protective Services, natural resources police officers, chiefs of  
4 police and police of incorporated municipalities, and county  
5 sheriffs and their deputies, and whose primary duties are the  
6 investigation of crime and the apprehension of criminals.

7 (2) "Head of a law-enforcement agency" means the  
8 Superintendent of the State Police, the Director of the Division of  
9 Protective Services, the chief natural resources police officer of  
10 the Division of Natural Resources, a chief of police of an  
11 incorporated municipality ~~or~~, a county sheriff or the Director of  
12 the Division of Forestry.

13 (3) "State or local law-enforcement officer" means any duly  
14 authorized member of a law-enforcement agency who is authorized to  
15 maintain public peace and order, prevent and detect crime, make  
16 arrests and enforce the laws of the state or any county or  
17 municipality thereof, other than parking ordinances, and includes  
18 ~~those~~ persons employed as campus police officers at state  
19 institutions of higher education in accordance with the provisions  
20 of section five, article four, chapter eighteen-b of this code,  
21 although those institutions may not be considered law-enforcement  
22 agencies. The term ~~also~~ includes ~~those~~ persons employed as rangers  
23 by the Hatfield-McCoy Regional Recreation Authority in accordance  
24 with the provisions of section six, article fourteen, chapter  
25 twenty of this code, although the authority is not a  
26 law-enforcement agency.

27 (4) "Head of campus police" means the superintendent or  
28 administrative head of state or local law-enforcement officers

1 employed as campus police officers at state institutions of higher  
2 education in accordance with the provisions of section five,  
3 article four, chapter eighteen-b of this code.

4 (5) "Head of the rangers of the Hatfield-McCoy Regional  
5 Recreation Authority" means the superintendent or administrative  
6 head of state or local law-enforcement officers employed as rangers  
7 by the Hatfield-McCoy Regional Recreation Authority in accordance  
8 with the provisions of section six, article fourteen, chapter  
9 twenty of this code.

10 **ARTICLE 1A. DIVISION OF FORESTRY.**

11 **§19-1A-4. Additional duties of the Director of the Division of**  
12 **Forestry generally.**

13 (a) The director shall:

14 (1) Develop, promote and advance the growth of the forest  
15 products industries of this state;

16 (2) Cooperate with educational institutions, development  
17 agencies, and private and public organizations to promote the  
18 expansion of the forest products industries of this state in local  
19 and global markets;

20 (3) Conduct research on marketing and developing forest  
21 products and forest products industries; conserving, managing, and  
22 utilizing the state's forest land and its multiple uses; and  
23 improving the forestry knowledge and practices of private  
24 landowners.

25 (4) Compile its findings and recommendations, and disseminate  
26 the results of its research to the public, the forest products  
27 industry, the Governor and the Legislature.

28 (b) The director has the power to carry out and effectuate

1 the purposes of this article, article one-b of this chapter, and  
2 article three of chapter twenty of this code, including the power  
3 to:

4 (1) Accept and use gifts, donations or contributions from  
5 individuals, organizations or corporations, and to acquire by gift,  
6 lease or purchase real estate.

7 (2) Establish law enforcement practices and procedures to  
8 address the law enforcement requirements of the division; and

9 (3) To promulgate rules and regulations, subject to the  
10 provisions of chapter twenty-nine-a of this code.

11 **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

12 **PART I. LAW ENFORCEMENT, PROCEDURES AND PENALTIES.**

13 **§20-7-1. Chief natural resources police officer; natural resources**  
14 **police officers; special and emergency natural**  
15 **resources police officers; subsistence allowance;**  
16 **expenses.**

17 (a) The division's law-enforcement policies, practices and  
18 programs are under the immediate supervision and direction of the  
19 division law-enforcement officer selected by the director and  
20 designated as chief natural resources police officer as provided in  
21 section thirteen, article one of this chapter.

22 (b) Under the supervision of the director, the chief natural  
23 resources police officer shall organize, develop and maintain  
24 law-enforcement practices, means and methods geared, timed and  
25 adjustable to seasonal, emergency and other needs and requirements  
26 of the division's comprehensive natural resources program. All  
27 division personnel detailed and assigned to law-enforcement duties  
28 and services under this section shall be known and designated as

1 natural resources police officers and are under the immediate  
2 supervision and direction of the chief natural resources police  
3 officer except as otherwise provided. All natural resources police  
4 officers shall be trained, equipped and conditioned for duty and  
5 services wherever and whenever required by division law-enforcement  
6 needs.

7 (c) The chief natural resources police officer, acting under  
8 supervision of the director, is authorized to select and appoint  
9 emergency natural resources police officers for a limited period  
10 for effective enforcement of the provisions of this chapter when  
11 considered necessary because of emergency or other unusual  
12 circumstances. The emergency natural resources police officers  
13 shall be selected from qualified civil service personnel of the  
14 division, except in emergency situations and circumstances when the  
15 director may designate officers, without regard to civil service  
16 requirements and qualifications, to meet law-enforcement needs.  
17 Emergency natural resources police officers shall exercise all  
18 powers and duties prescribed in section four of this article for  
19 full-time salaried natural resources police officers except the  
20 provisions of subdivision (8) of said section.

21 (d) The chief natural resources police officer, acting under  
22 supervision of the director, is also authorized to select and  
23 appoint as special natural resources police officers any full-time  
24 civil service employee who is assigned to, and has direct  
25 responsibility for management of, an area owned, leased or under  
26 the control of the division and who has satisfactorily completed a  
27 course of training established and administered by the chief  
28 natural resources police officer, when the action is considered

1 necessary because of law-enforcement needs. The powers and duties  
2 of a special natural resources police officer, appointed under this  
3 provision, is the same within his or her assigned area as  
4 prescribed for full-time salaried natural resources police  
5 officers. The jurisdiction of the person appointed as a special  
6 natural resources police officer, under this provision, shall be  
7 limited to the division area or areas to which he or she is  
8 assigned and directly manages.

9 (e) ~~The chief natural resources police officer, acting under~~  
10 ~~supervision of the Director of the Division of Forestry is also~~  
11 authorized to appoint and revoke Division of Forestry as special  
12 natural resources police officers ~~any~~ who are full-time civil  
13 service ~~forest fire control~~ personnel who have satisfactorily  
14 completed a course of training as required by the Director of the  
15 Division of Forestry. ~~established and administered by the chief~~  
16 ~~natural resources police officer. The jurisdiction of forest fire~~  
17 ~~control full-time civil service personnel appointed as special~~  
18 ~~natural resources police officers is limited to the enforcement of~~  
19 ~~the provisions of article three of this chapter. The jurisdiction,~~  
20 powers and duties of Division of Forestry special natural resources  
21 police officers are set forth by the Director of the Division of  
22 Forestry pursuant to article three of this chapter, and articles  
23 one-a and one-b, chapter nineteen of this code.

24 (f) The chief natural resources police officer, with the  
25 approval of the director, has the power and authority to revoke any  
26 appointment of an emergency natural resources police officer or of  
27 a special natural resources police officer at any time.

28 (g) Natural resources police officers are subject to seasonal

1 or other assignment and detail to duty whenever and wherever  
2 required by the functions, services and needs of the division.

3 (h) The chief natural resources police officer shall designate  
4 the area of primary residence of each natural resources police  
5 officer, including himself or herself. Since the area of business  
6 activity of the division is actually anywhere within the  
7 territorial confines of the State of West Virginia, actual expenses  
8 incurred shall be paid whenever the duties are performed outside  
9 the area of primary assignment and still within the state.

10 (i) Natural resources police officers shall receive, in  
11 addition to their base pay salary, a minimum monthly subsistence  
12 allowance for their required telephone service, dry cleaning or  
13 required uniforms, and meal expenses while performing their regular  
14 duties in their area of primary assignment in the amount of \$130  
15 each month. This subsistence allowance does not apply to special  
16 or emergency natural resources police officers appointed under this  
17 section.

18 (j) After June 30, 2010, all those full time law-enforcement  
19 officers employed by the Division of Natural Resources as  
20 conservation officers shall be titled and known as natural  
21 resources police officers. Wherever used in this code the term  
22 "conservation officer," or its plural, means "natural resources  
23 police officer," or its plural, respectively.

24 (k) Notwithstanding any provision of this code to the  
25 contrary, the provisions of subdivision six, subsection c, section  
26 twelve, article twenty-one, chapter eleven of this code are  
27 inapplicable to pensions of natural resources police officers paid  
28 through the Public Employees Retirement System.

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(NOTE: The purpose of this bill is transfer the supervision of special natural resources police officers working on forestry issues from the Division of Natural Resources to the Division of Forestry, where they are paid, housed and supervised. The bill also clarifies the jurisdiction of the Division of Forestry special natural resources police officers in the code and permits the director to enter into memorandums of understanding with other law-enforcement agencies.

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

§19-1A-4 is completely rewritten; therefore, strike-throughs and underscoring have been omitted.)