

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 460

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

[Originating in the Committee on Natural Resources;
reported February 17, 2011.]

A BILL to amend and reenact §15-10-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1A-4 of said code; and to amend and reenact §20-7-1 of said code, all relating to clarifying that Division of Forestry natural resources police officers are under the control and direction of the Director of the Division of Forestry; permitting the director to enter into memorandums of understanding with other law-enforcement agencies; and clarifying the duties of the director.

Be it enacted by the Legislature of West Virginia:

That §15-10-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §19-1A-4 of said code be amended

and reenacted; and that §20-7-1 of said code be amended and reenacted, all to read as follows:

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-3. Definitions.

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

3 (1) “Criminal justice enforcement personnel” means those
4 persons within the state criminal justice system who are
5 actually employed as members of the State Police, members
6 of the Division of Protective Services, natural resources
7 police officers, chiefs of police and police of incorporated
8 municipalities, and county sheriffs and their deputies, and
9 whose primary duties are the investigation of crime and the
10 apprehension of criminals.

11 (2) “Head of a law-enforcement agency” means the
12 Superintendent of the State Police, the Director of the
13 Division of Protective Services, the chief natural resources
14 police officer of the Division of Natural Resources, a chief of
15 police of an incorporated municipality ~~or~~, a county sheriff or
16 the Director of the Division of Forestry.

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

32 (4) “Head of campus police” means the superintendent or
33 administrative head of state or local law-enforcement
34 officers employed as campus police officers at state institu-
35 tions of higher education in accordance with the provisions
36 of section five, article four, chapter eighteen-b of this code.

37 (5) “Head of the rangers of the Hatfield-McCoy Regional
38 Recreation Authority” means the superintendent or adminis-

39 trative head of state or local law-enforcement officers
40 employed as rangers by the Hatfield-McCoy Regional
41 Recreation Authority in accordance with the provisions of
42 section six, article fourteen, chapter twenty of this code.

ARTICLE 1A. DIVISION OF FORESTRY.

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

1 (a) The director shall:

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

4 (2) Cooperate with educational institutions, development
5 agencies, and private and public organizations to promote
6 the expansion of the forest products industries of this state
7 in local and global markets;

8 (3) Conduct research on marketing and developing forest
9 products and forest products industries; conserving, manag-
10 ing, and utilizing the state's forest land and its multiple uses;
11 and improving the forestry knowledge and practices of
12 private landowners.

13 (4) Compile its findings and recommendations, and dissem-
14 inate the results of its research to the public, the forest
15 products industry, the Governor and the Legislature.

16 (b) The director has the power to carry out and effectuate
17 the purposes of this article, article one-b of this chapter, and
18 article three of chapter twenty of this code, including the
19 power to:

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

23 (2) Establish law enforcement practices and procedures to
24 address the law enforcement requirements of the division;
25 and

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

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

PART I. LAW ENFORCEMENT,

PROCEDURES AND PENALTIES.

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

1 (a) The division's law-enforcement policies, practices and
2 programs are under the immediate supervision and direction
3 of the division law-enforcement officer selected by the

4 director and designated as chief natural resources police
5 officer as provided in section thirteen, article one of this
6 chapter.

7 (b) Under the supervision of the director, the chief natural
8 resources police officer shall organize, develop and maintain
9 law-enforcement practices, means and methods geared,
10 timed and adjustable to seasonal, emergency and other needs
11 and requirements of the division's comprehensive natural
12 resources program. All division personnel detailed and
13 assigned to law-enforcement duties and services under this
14 section shall be known and designated as natural resources
15 police officers and are under the immediate supervision and
16 direction of the chief natural resources police officer except
17 as otherwise provided. All natural resources police officers
18 shall be trained, equipped and conditioned for duty and
19 services wherever and whenever required by division
20 law-enforcement needs.

21 (c) The chief natural resources police officer, acting under
22 supervision of the director, is authorized to select and
23 appoint emergency natural resources police officers for a
24 limited period for effective enforcement of the provisions of
25 this chapter when considered necessary because of emer-

26 gency or other unusual circumstances. The emergency
27 natural resources police officers shall be selected from
28 qualified civil service personnel of the division, except in
29 emergency situations and circumstances when the director
30 may designate officers, without regard to civil service
31 requirements and qualifications, to meet law-enforcement
32 needs. Emergency natural resources police officers shall
33 exercise all powers and duties prescribed in section four of
34 this article for full-time salaried natural resources police
35 officers except the provisions of subdivision (8) of said
36 section.

37 (d) The chief natural resources police officer, acting under
38 supervision of the director, is also authorized to select and
39 appoint as special natural resources police officers any
40 full-time civil service employee who is assigned to, and has
41 direct responsibility for management of, an area owned,
42 leased or under the control of the division and who has
43 satisfactorily completed a course of training established and
44 administered by the chief natural resources police officer,
45 when the action is considered necessary because of
46 law-enforcement needs. The powers and duties of a special
47 natural resources police officer, appointed under this

48 provision, is the same within his or her assigned area as
49 prescribed for full-time salaried natural resources police
50 officers. The jurisdiction of the person appointed as a special
51 natural resources police officer, under this provision, shall be
52 limited to the division area or areas to which he or she is
53 assigned and directly manages.

54 (e) ~~The chief natural resources police officer, acting under~~
55 ~~supervision of the Director of the Division of Forestry is also~~
56 authorized to appoint and revoke Division of Forestry as
57 special natural resources police officers ~~any~~ who are
58 full-time civil service ~~forest fire control~~ personnel who have
59 satisfactorily completed a course of training as required by
60 the Director of the Division of Forestry. ~~established and~~
61 ~~administered by the chief natural resources police officer.~~
62 ~~The jurisdiction of forest fire control full-time civil service~~
63 ~~personnel appointed as special natural resources police~~
64 ~~officers is limited to the enforcement of the provisions of~~
65 ~~article three of this chapter.~~ The jurisdiction, powers and
66 duties of Division of Forestry special natural resources police
67 officers are set forth by the Director of the Division of
68 Forestry pursuant to article three of this chapter, and
69 articles one-a and one-b, chapter nineteen of this code.

70 (f) The chief natural resources police officer, with the
71 approval of the director, has the power and authority to
72 revoke any appointment of an emergency natural resources
73 police officer or of a special natural resources police officer
74 at any time.

75 (g) Natural resources police officers are subject to seasonal
76 or other assignment and detail to duty whenever and wher-
77 ever required by the functions, services and needs of the
78 division.

79 (h) The chief natural resources police officer shall desig-
80 nate the area of primary residence of each natural resources
81 police officer, including himself or herself. Since the area of
82 business activity of the division is actually anywhere within
83 the territorial confines of the State of West Virginia, actual
84 expenses incurred shall be paid whenever the duties are
85 performed outside the area of primary assignment and still
86 within the state.

87 (i) Natural resources police officers shall receive, in
88 addition to their base pay salary, a minimum monthly
89 subsistence allowance for their required telephone service,
90 dry cleaning or required uniforms, and meal expenses while
91 performing their regular duties in their area of primary

92 assignment in the amount of \$130 each month. This subsis-
93 tence allowance does not apply to special or emergency
94 natural resources police officers appointed under this
95 section.

96 (j) After June 30, 2010, all those full time law-enforcement
97 officers employed by the Division of Natural Resources as
98 conservation officers shall be titled and known as natural
99 resources police officers. Wherever used in this code the term
100 “conservation officer,” or its plural, means “natural re-
101 sources police officer,” or its plural, respectively.

102 (k) Notwithstanding any provision of this code to the
103 contrary, the provisions of subdivision six, subsection c,
104 section twelve, article twenty-one, chapter eleven of this
105 code are inapplicable to pensions of natural resources police
106 officers paid through the Public Employees Retirement
107 System.

(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.)