

**H. B. 4472**

(By Delegates Manypenny, Fleischauer, Barill  
and Marshall)

[Introduced February 9, 2012; referred to the

Committee on Natural Resources then Finance.]

A BILL to amend and reenact §19-1A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-1-7 of said code, all relating to Coopers Rock State Forest; transferring the supervisory and jurisdictional responsibilities of the area of Coopers Rock State Forest located south of Interstate 68 and the area located north of Interstate 68 known as the trout pond and its immediate environs from the Division of Forestry to the Division of Natural Resources; and prohibiting the sale of timber from the area of Coopers Rock State Forest located south of Interstate 68 and the area located north of Interstate 68 known as the trout pond and its immediate environs.

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

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

1 **CHAPTER 19. AGRICULTURE.**

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

3 **§19-1A-3. Division of Forestry; Division Director; duties, powers,**  
4 **dedication of certain moneys; creation of a special**  
5 **revenue account.**

6 The Division of Forestry heretofore created is hereby  
7 continued. And, except as otherwise provided in this article, all  
8 powers and duties previously exercised by the Director of Natural  
9 Resources under subsection (13), section seven, article one and  
10 article three, chapter twenty of this code, except those powers and  
11 duties relating solely to wildlife areas as described in section  
12 three, article three, chapter twenty of this code, heretofore  
13 transferred to the Division of Forestry, are hereby continued in  
14 the Division of Forestry, except Kanawha State Forest, and the area  
15 of Coopers Rock State Forest located south of Interstate 68 and the  
16 area located north of Interstate 68 known as the trout pond and its  
17 immediate environs, as hereinafter provided. The Division of  
18 Forestry has within its jurisdiction and supervision the state  
19 forests, other forests and woodland areas, the protection of forest  
20 areas from injury and damage by fire, disease, insects and other  
21 pestilences and forces, the management of forest areas for natural  
22 resources, conservation and undeveloped recreational activities,  
23 administration of the southeastern interstate forest fire

1 protection compact and other compacts and agreements relating to  
2 forest management and husbandry, and the administration and  
3 enforcement of laws relating to the conservation, development,  
4 protection, use and enjoyment of all forest land areas of the state  
5 consistent with the provisions of sections one and two of this  
6 article. All moneys collected from the sale of timber realized  
7 through management of the state-owned forests and the sale of  
8 seedlings from the tree nurseries shall be paid into the State  
9 Treasury and shall be credited to a special account within the  
10 Division of Forestry and used exclusively for the purposes of this  
11 article and article three, chapter twenty of this code.

12       The Division of Forestry has jurisdiction to regulate the  
13 growing, digging, collecting, gathering, possession and sale of  
14 ginseng as provided in section three-a of this article.

15       The chief of the Division is the Director of the Division of  
16 Forestry who shall be appointed and qualified as provided in  
17 section five of this article.

18       The Director of the Division of Forestry shall study means and  
19 methods of implementing the provisions of section fifty-three,  
20 Article VI of the Constitution of West Virginia, relating to forest  
21 lands, and shall prepare and recommend legislation thereon.

22       The division lines within the state forests between improved  
23 recreation areas under the management of the Division of Natural  
24 Resources and the demonstration forests under the management of the

1 Division of Forestry, heretofore established by agreement, are  
2 hereby continued with the exception of Kanawha State Forest, and  
3 the area of Coopers Rock State Forest located south of Interstate  
4 68 and the area located north of Interstate 68 known as the trout  
5 pond and its immediate environs, where the entire ~~forest~~ forests  
6 will be managed by and under the jurisdiction of the Division of  
7 Natural Resources for multiple uses and the Division of Natural  
8 Resources shall continue to provide recreational opportunities,  
9 including, but not limited to, mountain-biking trails, hiking  
10 trails, horseback-riding trails and hunting, fishing and trapping  
11 lands. The forest may not be designated as a state park or state  
12 recreation area; however, any sale of timber from Kanawha State  
13 Forest, and the area of Coopers Rock State Forest located south of  
14 Interstate 68 and the area located north of Interstate 68 known as  
15 the trout pond and its immediate environ ~~continue to~~ is prohibited.

16 In the event of disagreement over the placement of a division  
17 line or dual occupancy of a building, the disposition shall be  
18 decided by the Legislature's Joint Committee on Government and  
19 Finance at a regularly scheduled meeting.

20 **CHAPTER 20. NATURAL RESOURCES.**

21 **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

22 **§20-1-7. Additional powers, duties and services of director.**

23 In addition to all other powers, duties and responsibilities  
24 granted and assigned to the director in this chapter and elsewhere

1 by law, the director is hereby authorized and empowered to:

2       (1) With the advice of the commission, prepare and administer,  
3 through the various divisions created by this chapter, a long-range  
4 comprehensive program for the conservation of the natural resources  
5 of the state which best effectuates the purpose of this chapter and  
6 which makes adequate provisions for the natural resources laws of  
7 the state;

8       (2) Sign and execute in the name of the state by the Division  
9 of Natural Resources any contract or agreement with the federal  
10 government or its departments or agencies, subdivisions of the  
11 state, corporations, associations, partnerships or individuals;

12       (3) Conduct research in improved conservation methods and  
13 disseminate information matters to the residents of the state;

14       (4) Conduct a continuous study and investigation of the habits  
15 of wildlife and, for purposes of control and protection, to  
16 classify by regulation the various species into such categories as  
17 may be established as necessary;

18       (5) Prescribe the locality in which the manner and method by  
19 which the various species of wildlife may be taken, or chased,  
20 unless otherwise specified by this chapter;

21       (6) Hold at least six meetings each year at such time and at  
22 such points within the state, as in the discretion of the Natural  
23 Resources Commission may appear to be necessary and proper for the  
24 purpose of giving interested persons in the various sections of the

1 state an opportunity to be heard concerning open season for their  
2 respective areas, and report the results of the meetings to the  
3 Natural Resources Commission before such season and bag limits are  
4 fixed by it;

5       (7) Suspend open hunting season upon any or all wildlife in  
6 any or all counties of the state with the prior approval of the  
7 Governor in case of an emergency such as a drought, forest fire  
8 hazard or epizootic disease among wildlife. The suspension shall  
9 continue during the existence of the emergency and until rescinded  
10 by the director. Suspension, or reopening after such suspension,  
11 of open seasons may be made upon twenty-four hours' notice by  
12 delivery of a copy of the order of suspension or reopening to the  
13 wire press agencies at the State Capitol;

14       (8) Supervise the fiscal affairs and responsibilities of the  
15 division;

16       (9) Designate such localities as he or she shall determine to  
17 be necessary and desirable for the perpetuation of any species of  
18 wildlife;

19       (10) Enter private lands to make surveys or inspections for  
20 conservation purposes, to investigate for violations of provisions  
21 of this chapter, to serve and execute warrants and processes, to  
22 make arrests and to otherwise effectively enforce the provisions of  
23 this chapter;

24       (11) Acquire for the state in the name of the Division of

1 Natural Resources by purchase, condemnation, lease or agreement, or  
2 accept or reject for the state, in the name of the Division of  
3 Natural Resources, gifts, donations, contributions, bequests or  
4 devises of money, security or property, both real and personal, and  
5 any interest in such property, including lands and waters, which he  
6 or she deems suitable for the following purposes:

7       (a) For state forests for the purpose of growing timber,  
8 demonstrating forestry, furnishing or protecting watersheds or  
9 providing public recreation;

10       (b) For state parks or recreation areas for the purpose of  
11 preserving scenic, aesthetic, scientific, cultural, archaeological  
12 or historical values or natural wonders, or providing public  
13 recreation;

14       (c) For public hunting, trapping or fishing grounds or waters  
15 for the purpose of providing areas in which the public may hunt,  
16 trap or fish, as permitted by the provisions of this chapter and  
17 the rules issued hereunder;

18       (d) For fish hatcheries, game farms, wildlife research areas  
19 and feeding stations;

20       (e) For the extension and consolidation of lands or waters  
21 suitable for the above purposes by exchange of other lands or  
22 waters under his or her supervision;

23       (f) For such other purposes as may be necessary to carry out  
24 the provisions of this chapter;

1 (12) Capture, propagate, transport, sell or exchange any  
2 species of wildlife as may be necessary to carry out the provisions  
3 of this chapter;

4 (13) Sell timber for not less than the value thereof, as  
5 appraised by a qualified appraiser appointed by the director, from  
6 all lands under the jurisdiction and control of the director,  
7 except those lands that are designated as state parks and those in  
8 the Kanawha State Forest, and the area of Coopers Rock State Forest  
9 located south of Interstate 68 and the area located north of  
10 Interstate 68 known as the trout pond and its immediate environs.

11 The appraisal shall be made within a reasonable time prior to any  
12 sale, reduced to writing, filed in the office of the director and  
13 shall be available for public inspection. The director must obtain  
14 the written permission of the Governor to sell timber when the  
15 appraised value is more than \$5,000. The director shall receive  
16 sealed bids therefor, after notice by publication as a Class II  
17 legal advertisement in compliance with the provisions of article  
18 three, chapter fifty-nine of this code and the publication area for  
19 such publication shall be each county in which the timber is  
20 located. The timber so advertised shall be sold at not less than  
21 the appraised value to the highest responsible bidder, who shall  
22 give bond for the proper performance of the sales contract as the  
23 director shall designate; but the director shall have the right to  
24 reject any and all bids and to readvertise for bids. If the



1 foregoing provisions of this section have been complied with and no  
2 bid equal to or in excess of the appraised value of the timber is  
3 received, the director may, at any time, during a period of six  
4 months after the opening of the bids, sell the timber in such  
5 manner as he or she deems appropriate, but the sale price shall not  
6 be less than the appraised value of the timber advertised. No  
7 contract for sale of timber made pursuant to this section shall  
8 extend for a period of more than ten years. And all contracts  
9 heretofore entered into by the state for the sale of timber shall  
10 not be validated by this section if the same be otherwise invalid.  
11 The proceeds arising from the sale of the timber so sold shall be  
12 paid to the Treasurer of the State of West Virginia and shall be  
13 credited to the division and used exclusively for the purposes of  
14 this chapter: *Provided*, That nothing contained herein shall  
15 prohibit the sale of timber which otherwise would be removed from  
16 rights-of-way necessary for and strictly incidental to the  
17 extraction of minerals;

18 (14) Sell or lease, with the approval in writing of the  
19 Governor, coal, oil, gas, sand, gravel and any other minerals that  
20 may be found in the lands under the jurisdiction and control of the  
21 director, except those lands that are designated as state parks.  
22 The director, before making sale or lease thereof, shall receive  
23 sealed bids therefor, after notice by publication as a Class II  
24 legal advertisement in compliance with the provisions of article

1 three, chapter fifty-nine of this code, and the publication area  
2 for such publication shall be each county in which such lands are  
3 located. The minerals so advertised shall be sold or leased to the  
4 highest responsible bidder, who shall give bond for the proper  
5 performance of the sales contract or lease as the director shall  
6 designate; but the director shall have the right to reject any and  
7 all bids and to readvertise for bids. The proceeds arising from  
8 any such sale or lease shall be paid to the Treasurer of the State  
9 of West Virginia and shall be credited to the division and used  
10 exclusively for the purposes of this chapter;

11 (15) Exercise the powers granted by this chapter for the  
12 protection of forests and regulate fires and smoking in the woods  
13 or in their proximity at such times and in such localities as may  
14 be necessary to reduce the danger of forest fires;

15 (16) Cooperate with departments and agencies of state, local  
16 and federal governments in the conservation of natural resources  
17 and the beautification of the state;

18 (17) Report to the Governor each year all information relative  
19 to the operation and functions of the division and the director  
20 shall make such other reports and recommendations as may be  
21 required by the Governor, including an annual financial report  
22 covering all receipts and disbursements of the division for each  
23 fiscal year, and he or she shall deliver such report to the  
24 Governor on or before December 1, next after the end of the fiscal

1 year so covered. A copy of such report shall be delivered to each  
2 house of the Legislature when convened in January next following;

3 (18) Keep a complete and accurate record of all proceedings,  
4 record and file all bonds and contracts taken or entered into and  
5 assume responsibility for the custody and preservation of all  
6 papers and documents pertaining to his or her office, except as  
7 otherwise provided by law;

8 (19) Offer and pay, in his or her discretion, rewards for  
9 information respecting the violation, or for the apprehension and  
10 conviction of any violators, of any of the provisions of this  
11 chapter;

12 (20) Require such reports as he or she may deem to be  
13 necessary from any person issued a license or permit under the  
14 provisions of this chapter, but no person shall be required to  
15 disclose secret processes or confidential data of competitive  
16 significance;

17 (21) Purchase as provided by law all equipment necessary for  
18 the conduct of the division;

19 (22) Conduct and encourage research designed to further new  
20 and more extensive uses of the natural resources of this state and  
21 to publicize the findings of such research;

22 (23) Encourage and cooperate with other public and private  
23 organizations or groups in their efforts to publicize the  
24 attractions of the state;

1           (24) Accept and expend, without the necessity of appropriation  
2 by the Legislature, any gift or grant of money made to the division  
3 for any and all purposes specified in this chapter and he or she  
4 shall account for and report on all such receipts and expenditures  
5 to the Governor;

6           (25) Cooperate with the state historian and other appropriate  
7 state agencies in conducting research with reference to the  
8 establishment of state parks and monuments of historic, scenic and  
9 recreational value and to take such steps as may be necessary in  
10 establishing such monuments or parks as he or she deems advisable;

11          (26) Maintain in his or her office at all times, properly  
12 indexed by subject matter and also in chronological sequence, all  
13 rules made or issued under the authority of this chapter. Such  
14 records shall be available for public inspection on all business  
15 days during the business hours of working days;

16          (27) Delegate the powers and duties of his or her office,  
17 except the power to execute contracts not related to land and  
18 stream management, to appointees and employees of the division, who  
19 shall act under the direction and supervision of the director and  
20 for whose acts he or she shall be responsible;

21          (28) Conduct schools, institutions and other educational  
22 programs, apart from or in cooperation with other governmental  
23 agencies, for instruction and training in all phases of the natural  
24 resources programs of the state;

1           (29) Authorize the payment of all, or any part of, the  
2 reasonable expenses incurred by an employee of the division in  
3 moving his or her household furniture and effects as a result of a  
4 reassignment of the employee: *Provided*, That no part of the moving  
5 expenses of any one such employee shall be paid more frequently  
6 than once in twelve months; and

7           (30) Promulgate rules, in accordance with the provisions of  
8 chapter twenty-nine-a of this code, to implement and make effective  
9 the powers and duties vested in him or her by the provisions of  
10 this chapter and take such other steps as may be necessary in his  
11 or her discretion for the proper and effective enforcement of the  
12 provisions of this chapter.

NOTE: The purpose of this bill is to transfer the supervisory and jurisdictional responsibilities of the area of Coopers Rock State Forest located south of Interstate 68 and the area located north of Interstate 68 known as the trout pond and its immediate environs from the Division of Forestry to the Division of Natural Resources. The bill also prohibits the sale of timber in the same areas of Coopers Rock State Forest. The bill gives these areas of Coopers Rock State Forest the same status as Kanawha State Forest.

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