

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 487

SENATORS SYPOLT, HAMILTON, AZINGER, AND RUCKER,

original sponsors

[Originating in the Committee on Natural Resources;

reported on January 22, 2020]

1 A BILL to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended, relating
2 to additional powers, duties, and services of Director of Division of Natural Resources;
3 and creating exception to requirement that Division of Natural Resources payments be
4 deposited in bank within 24 hours.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

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

1 In addition to all other powers, duties, and responsibilities granted and assigned to the
2 director in this chapter and elsewhere by law, the director may:

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

7 (2) Sign and execute in the name of the state by the Division of Natural Resources any
8 contract or agreement with the federal government or its departments or agencies, subdivisions
9 of the state, corporations, associations, partnerships, or individuals: *Provided*, That
10 intergovernmental cooperative agreements and agreements with nongovernmental organizations
11 in furtherance of providing a comprehensive program for the exploration, conservation,
12 development, protection, enjoyment, and use of the natural resources of the state are exempt
13 from the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That repair, renovation,
14 and rehabilitation of existing facilities, buildings, amenities, and infrastructure necessary to protect
15 public health or safety or to provide uninterrupted enjoyment and public use of state parks, state
16 forests, wildlife management areas, and state natural areas under the jurisdiction of the Division
17 of Natural Resources are exempt from the provisions of §5A-3-1 *et seq.* of this code. Nothing in
18 this section authorizes new construction of buildings and new construction of recreational facilities

19 as defined in §20-5-4 of this code without complying with the provisions of §5A-3-1 *et seq.* of this
20 code;

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

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

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

28 (6) Hold at least six meetings each year at such time and at such points within the state
29 as, in the discretion of the Natural Resources Commission, may appear to be necessary and
30 proper for the purpose of giving interested persons in the various sections of the state an
31 opportunity to be heard concerning open season for their respective areas, and report the results
32 of the meetings to the Natural Resources Commission before the season and bag limits are fixed
33 by it;

34 (7) Suspend open hunting season upon any or all wildlife in any or all counties of the state
35 with the prior approval of the Governor in case of an emergency such as a drought, forest fire
36 hazard, or epizootic disease among wildlife. The suspension shall continue during the existence
37 of the emergency and until rescinded by the director. Suspension, or reopening after such
38 suspension, of open seasons may be made upon 24 hours' notice by delivery of a copy of the
39 order of suspension or reopening to the wire press agencies at the State Capitol;

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

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

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

46 (11) Acquire for the state in the name of the Division of Natural Resources by purchase,
47 condemnation, lease or agreement, or accept or reject for the state, in the name of the Division
48 of Natural Resources, gifts, donations, contributions, bequests, or devises of money, security, or
49 property, both real and personal, and any interest in such property, including lands and waters,
50 which he or she deems suitable for the following purposes:

51 ~~(a)~~(A) For state forests for the purpose of growing timber, demonstrating forestry,
52 furnishing or protecting watersheds, or providing public recreation;

53 ~~(b)~~(B) For state parks or recreation areas for the purpose of preserving scenic, aesthetic,
54 scientific, cultural, archaeological, or historical values or natural wonders, or providing public
55 recreation;

56 ~~(c)~~(C) For public hunting, trapping, or fishing grounds or waters for the purpose of
57 providing areas in which the public may hunt, trap, or fish, as permitted by the provisions of this
58 chapter and the rules issued hereunder;

59 ~~(d)~~(D) For fish hatcheries, game farms, wildlife research areas, and feeding stations;

60 ~~(e)~~(E) For the extension and consolidation of lands or waters suitable for the above
61 purposes by exchange of other lands or waters under his or her supervision;

62 ~~(f)~~(F) For such other purposes as may be necessary to carry out the provisions of this
63 chapter;

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

66 (13) Sell timber for not less than the value thereof, as appraised by a qualified appraiser
67 appointed by the director, from all lands under the jurisdiction and control of the director, except
68 those lands that are designated as state parks and those in the Kanawha State Forest. The

69 appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the
70 office of the director and shall be available for public inspection. The director must obtain the
71 written permission of the Governor to sell timber when the appraised value is more than \$5,000.
72 The director shall receive sealed bids therefor, after notice by publication as a Class II legal
73 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication
74 area for the publication shall be each county in which the timber is located. The timber so
75 advertised shall be sold at not less than the appraised value to the highest responsible bidder,
76 who shall give bond for the proper performance of the sales contract as the director shall
77 designate; but the director may reject any and all bids and readvertise for bids. If the foregoing
78 provisions of this section have been complied with and no bid equal to or in excess of the
79 appraised value of the timber is received, the director may, at any time, during a period of six
80 months after the opening of the bids, sell the timber in such manner as he or she deems
81 appropriate, but the sale price may not be less than the appraised value of the timber advertised.
82 No contract for sale of timber made pursuant to this section may extend for a period of more than
83 10 years. And all contracts heretofore entered into by the state for the sale of timber may not be
84 validated by this section if a contract is otherwise invalid. The proceeds arising from the sale of
85 the timber so sold shall be paid to the Treasurer of the State of West Virginia and shall be credited
86 to the division and used exclusively for the purposes of this chapter: *Provided*, That nothing
87 contained herein may prohibit the sale of timber which otherwise would be removed from rights-
88 of-way necessary for and strictly incidental to the extraction of minerals;

89 (14) Sell or lease, with the approval in writing of the Governor, coal, oil, gas, sand, gravel,
90 and any other minerals that may be found in the lands under the jurisdiction and control of the
91 director, except those lands that are designated as state parks. The director, before making sale
92 or lease thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal
93 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the
94 publication area for such publication shall be each county in which such lands are located. The

95 minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give
96 bond for the proper performance of the sales contract or lease as the director shall designate; but
97 the director may reject any and all bids and readvertise for bids. The proceeds arising from any
98 such sale or lease shall be paid to the Treasurer of the State of West Virginia and shall be credited
99 to the division and used exclusively for the purposes of this chapter;

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

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

105 (17) Report to the Governor each year all information relative to the operation and
106 functions of the division, and the director shall make such other reports and recommendations as
107 may be required by the Governor, including an annual financial report covering all receipts and
108 disbursements of the division for each fiscal year, and he or she shall deliver the report to the
109 Governor on or before December 1 next after the end of the fiscal year so covered. A copy of the
110 report shall be delivered to each house of the Legislature when convened in January next
111 following;

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

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

117 (20) Require such reports as he or she may determine to be necessary from any person
118 issued a license or permit under the provisions of this chapter, but no person may be required to
119 disclose secret processes or confidential data of competitive significance;

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

121 (22) Conduct and encourage research designed to further new and more extensive uses
122 of the natural resources of this state and to publicize the findings of the research;

123 (23) Encourage and cooperate with other public and private organizations or groups in
124 their efforts to publicize the attractions of the state, including completing the feasibility study for
125 the Beech Fork State Park Lodge as follows:

126 (A) The director shall convene, prior to October 1, 2019, two public hearings:

127 (i) An initial public hearing shall be for the purpose of seeking public input regarding
128 options for the construction of a lodge and a conference center, including all available public,
129 private, or public-private partnership (PPP) funding and financing options; and

130 (ii) A subsequent public hearing at which the feasibility study and any recommendation
131 shall be available for public comment;

132 (B) The public hearings required by this subdivision must be held in a suitable location
133 reasonably close to Beech Fork State Park so as to accommodate public participation from the
134 citizens of Cabell, Lincoln, and Wayne counties; and

135 (C) Upon completion of the feasibility study, it shall be submitted by the director to the
136 Joint Committee on Government and Finance on or before December 1, 2019;

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

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

144 (26) Maintain in his or her office at all times, properly indexed by subject matter and also
145 in chronological sequence, all rules made or issued under the authority of this chapter. The

146 records shall be available for public inspection on all business days during the business hours of
147 working days;

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

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

155 (29) Authorize the payment of all or any part of the reasonable expenses incurred by an
156 employee of the division in moving his or her household furniture and effects as a result of a
157 reassignment of the employee: *Provided*, That no part of the moving expenses of any one such
158 employee may be paid more frequently than once in 12 months;

159 (30) Establish procedures and fee schedules for individuals applying for limited permit
160 hunts; ~~and~~

161 (31) Exempt designated sections within the Division of Natural Resources from the
162 requirement that all payments must be deposited in a bank within 24 hours for amounts less than
163 \$500, notwithstanding any other provision of this code to the contrary: *Provided*, That such
164 designated sections shall make a deposit in any amount no less than every seven working days;
165 and

166 ~~(34)~~ (32) Promulgate rules, in accordance with the provisions of §29A-1-1 *et seq.* of this
167 code, to implement and make effective the powers and duties vested in him or her by the
168 provisions of this chapter and take such other steps as may be necessary in his or her discretion
169 for the proper and effective enforcement of the provisions of this chapter.

NOTE: The purpose of this bill is to exempt designated sections within the Division of Natural Resources from the requirement that all payments must be deposited in a bank

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within 24 hours for amounts less than \$500 provided a deposit in any amount is made at least every seven working days.

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