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STATE OF WEST VIRGINIA

SD 280

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 280

(By Senator WIEDEBUSCH, ET AL)



PASSED APRIL 12, 1997

In Effect NINETY DAYS FROM Passage

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WEST VIRGINIA LEGISLATURE

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Senate Bill No. 280

(BY SENATORS WIEDEBUSCH, DITTMAR, BALL, BAILEY,
ANDERSON, BUCKALEW, WHITE, SNYDER, LOVE,
SCHOONOVER AND BOWMAN)

[Passed April 12, 1997; in effect ninety days from passage.]

AN ACT to amend article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one-e, relating to prohibiting conservation officers from performing duties for consideration from individuals; criminal penalties; allowing the chief conservation officer to contract with entities to provide extraordinary law-enforcement services; payment from special account to officers; contract provisions; indemnification of state; and promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be

amended by adding thereto a new section, designated section one-e, to read as follows:

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

PART 1. LAW ENFORCEMENT, PROCEDURES AND PENALTIES.

§20-7-1e. Conservation officers performing duties for private persons; penalty; providing extraordinary law enforcement or security services by contract.

1 (a) Any conservation officer who hires himself or herself
2 to any person, firm or corporation to guard private
3 property, or who demands or receives from any person,
4 firm or corporation any money or other thing of value as
5 a consideration for the performance of, or the failure to
6 perform, his or her duties under the regulations of the
7 chief conservation officer and the provisions of this
8 section, is guilty of a misdemeanor and, upon conviction
9 thereof, shall be fined not less than twenty-five dollars nor
10 more than two hundred dollars, or confined in the county
11 or regional jail for not more than four months, or both
12 fined and confined.

13 (b) Notwithstanding any other provision of this section
14 to the contrary, the chief conservation officer may con-
15 tract with the public, military or private entities to
16 provide extraordinary law enforcement or security
17 services by the division of natural resources when it is
18 determined by the chief conservation officer to be in the
19 public interest. The chief conservation officer may assign
20 personnel, equipment or facilities, and the division shall
21 be reimbursed for the wages, overtime wages, benefits and
22 costs of providing the contract services as negotiated
23 between the parties. The compensation paid to conserva-
24 tion officers by virtue of contracts provided in this section
25 shall be paid from a special account and are excluded
26 from any formulation used to calculate an employee's
27 benefits. All requests for obtaining extraordinary law
28 enforcement or security services shall be made to the chief
29 conservation officer in writing and shall explain the
30 funding source and the authority for making the request.
31 No officer of the division is required to accept any assign-
32 ment made pursuant to this subsection. Every officer

33 assigned to duty hereunder shall be paid according to the
34 hours and overtime hours actually worked notwithstanding
35 that officer's status as exempt personnel under the
36 "Federal Labor Standards Act" or applicable state
37 statutes. Every contract entered into under this subsection
38 shall contain the provision that in the event of public
39 disaster or emergency where the reassignment to official
40 duty of the officer is required, neither the division nor any
41 of its officers or other personnel are liable for any damages
42 incurred as the result of the reassignment. Further,
43 any entity contracting with the division of natural resources
44 under this section shall also agree as part of that
45 contract to hold harmless and indemnify the state, division
46 of natural resources and its personnel from any
47 liability arising out of employment under that contract.

48 The director is authorized to propose legislative rules,
49 subject to approval by the Legislature, in accordance with
50 chapter twenty-nine-a of this code relating to the implementation
51 of contracts entered into pursuant to this subsection: *Provided*, That the rules expressly prohibit
52 private employment of officers in circumstances involving
53 labor disputes.
54

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Benz Schorover
.....
Chairman Senate Committee

Nick Fantasia
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll E. Holmes
.....
Clerk of the Senate

Gregory A. Bray
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *28th*
day of *April*, 1997.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/22/97

Time 3:33 pm