

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2812**

4 (By Delegates Canterbury and O’Neal)

5
6 (Originating in the House Committee on Finance.)

7
8 [February 24, 2015]

9
10 A BILL to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended, relating to
11 certain subsistence allowance considered compensation for purposes of calculating pension
12 benefits for natural resources police officers.

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

14 That §20-7-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted
15 to read as follows:

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

17 **§20-7-1. Chief natural resources police officer; natural resources police officers; special and**
18 **emergency natural resources police officers; subsistence allowance; expenses.**

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

1 chapter.

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

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

20 (d) The chief natural resources police officer, acting under supervision of the director, is also
21 authorized to select and appoint as special natural resources police officers any full-time civil service

1 employee who is assigned to, and has direct responsibility for management of, an area owned, leased
2 or under the control of the division and who has satisfactorily completed a course of training
3 established and administered by the chief natural resources police officer, when the action is
4 considered necessary because of law-enforcement needs. The powers and duties of a special natural
5 resources police officer, appointed under this provision, is the same within his or her assigned area
6 as prescribed for full-time salaried natural resources police officers. The jurisdiction of the person
7 appointed as a special natural resources police officer, under this provision, shall be limited to the
8 division area or areas to which he or she is assigned and directly manages.

9 (e) The Director of the Division of Forestry is authorized to appoint and revoke Division of
10 Forestry special natural resources police officers who are full-time civil service personnel who have
11 satisfactorily completed a course of training as required by the Director of the Division of Forestry.
12 The jurisdiction, powers and duties of Division of Forestry special natural resources police officers
13 are set forth by the Director of the Division of Forestry pursuant to article three of this chapter, and
14 articles one-a and one-b, chapter nineteen of this code.

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

18 (g) Natural resources police officers are subject to seasonal or other assignment and detail
19 to duty whenever and wherever required by the functions, services and needs of the division.

20 (h) The chief natural resources police officer shall designate the area of primary residence
21 of each natural resources police officer, including himself or herself. Since the area of business

1 activity of the division is actually anywhere within the territorial confines of the State of West
2 Virginia, actual expenses incurred shall be paid whenever the duties are performed outside the area
3 of primary assignment and still within the state.

4 (i) Natural resources police officers shall receive, in addition to their base pay salary, a
5 minimum monthly subsistence allowance for their required telephone service, dry cleaning or
6 required uniforms, and meal expenses while performing their regular duties in their area of primary
7 assignment in the amount of \$130 each month: Provided, That only subsistence allowance paid
8 pursuant to this section prior to July 1, 2015, may be considered compensation as defined in section
9 two, article ten, chapter five of this code: *Provided, however,* That if a natural resource officer
10 decides that he or she would rather not have the subsistence allowance considered compensation as
11 authorized by this subsection, he or she must make a written request of the Consolidated Public
12 Retirement Board by December 31, 2015; and upon receipt of the written request, the Consolidated
13 Public Retirement Board shall follow the procedure for correcting errors contained in section forty-
14 four, article ten, chapter five of this code to correct the officer's retirement account. This subsistence
15 allowance does not apply to special or emergency natural resources police officers appointed under
16 this section.

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

21 (k) Notwithstanding any provision of this code to the contrary, the provisions of subdivision

1 six, subsection c, section twelve, article twenty-one, chapter eleven of this code are inapplicable to
2 pensions of natural resources police officers paid through the Public Employees Retirement System.