

H. B. 2812

(By Delegates Canterbury and O'Neal)

[Introduced February 18, 2015; referred to the

Committee on Pensions and Retirement then Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

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

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

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

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

19 (d) The chief natural resources police officer, acting under supervision of the director, is also
20 authorized to select and appoint as special natural resources police officers any full-time civil service
21 employee who is assigned to, and has direct responsibility for management of, an area owned, leased
22 or under the control of the division and who has satisfactorily completed a course of training

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

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

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

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

18 (h) The chief natural resources police officer shall designate the area of primary residence
19 of each natural resources police officer, including himself or herself. Since the area of business
20 activity of the division is actually anywhere within the territorial confines of the State of West
21 Virginia, actual expenses incurred shall be paid whenever the duties are performed outside the area
22 of primary assignment and still within the state.

1 (i) Natural resources police officers shall receive, in addition to their base pay salary, a
2 minimum monthly subsistence allowance for their required telephone service, dry cleaning or
3 required uniforms, and meal expenses while performing their regular duties in their area of primary
4 assignment in the amount of \$130 each month: Provided, That only subsistence allowance paid
5 pursuant to this section prior to July 1, 2015, may be considered compensation as defined in section
6 two, article ten, chapter five of this code. This subsistence allowance does not apply to special or
7 emergency natural resources police officers appointed under this section.

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

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

NOTE: The purpose of this bill is to clarify use of subsistence allowance in determining compensation for purposes of calculating pension benefits for natural resources police officers.

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