

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4180**

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[Originating in the Committee on Government

Organization; February 9, 2018.]



1 A BILL to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended, relating  
2 to wildlife resources; and authorizing the Director of the Division of Natural Resources to  
3 establish procedures and a fee schedule for individuals applying for limited permit hunts.

*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 ~~is hereby authorized and empowered~~  
3 ~~to~~ may:

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

8 (2) Sign and execute in the name of the state by the Division of Natural Resources any  
9 contract or agreement with the federal government or its departments or agencies, subdivisions  
10 of the state, corporations, associations, partnerships or individuals: *Provided*, That  
11 intergovernmental cooperative agreements and agreements with nongovernmental organizations  
12 in furtherance of providing a comprehensive program for the exploration, conservation,  
13 development, protection, enjoyment and use of the natural resources of the state are exempt from  
14 the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That repair and related  
15 construction contracts necessary to protect public health or safety or to provide uninterrupted  
16 enjoyment and public use of state parks, state forests, wildlife management areas and state  
17 natural areas under the jurisdiction of the Division of Natural Resources are exempt from the  
18 provisions of §5A-3-1 *et seq.* of this code. Nothing in this section ~~shall~~ authorizes the construction  
19 or replacement of capital improvements without complying with the provisions of §5A-3-1 *et seq.*  
20 of this 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 proper  
30 for the purpose of giving interested persons in the various sections of the state an opportunity to  
31 be heard concerning open season for their respective areas, and report the results of the meetings  
32 to the Natural Resources Commission before ~~such~~ the season and bag limits are fixed by it;

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

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

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

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

45 (11) Acquire for the state in the name of the Division of Natural Resources by purchase,  
46 condemnation, lease or agreement, or accept or reject for the state, in the name of the Division

47 of Natural Resources, gifts, donations, contributions, bequests or devises of money, security or  
48 property, both real and personal, and any interest in such property, including lands and waters,  
49 which he or she deems suitable for the following purposes:

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

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

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

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

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

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

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

64 (13) Sell timber for not less than the value thereof, as appraised by a qualified appraiser  
65 appointed by the director, from all lands under the jurisdiction and control of the director, except  
66 those lands that are designated as state parks and those in the Kanawha State Forest. The  
67 appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the  
68 office of the director and shall be available for public inspection. The director must obtain the  
69 written permission of the Governor to sell timber when the appraised value is more than \$5,000.  
70 The director shall receive sealed bids therefor, after notice by publication as a Class II legal  
71 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication  
72 area for ~~such~~ the publication shall be each county in which the timber is located. The timber so

73 advertised shall be sold at not less than the appraised value to the highest responsible bidder,  
74 who shall give bond for the proper performance of the sales contract as the director shall  
75 designate; but the director ~~shall have the right to~~ may reject any and all bids and ~~to~~ readvertise  
76 for bids. If the foregoing provisions of this section have been complied with and no bid equal to or  
77 in excess of the appraised value of the timber is received, the director may, at any time, during a  
78 period of six months after the opening of the bids, sell the timber in such manner as he or she  
79 deems appropriate, but the sale price ~~shall~~ may not be less than the appraised value of the timber  
80 advertised. No contract for sale of timber made pursuant to this section ~~shall~~ may extend for a  
81 period of more than ten years. And all contracts heretofore entered into by the state for the sale  
82 of timber ~~shall~~ may not be validated by this section if ~~the same be~~ a contract is otherwise invalid.  
83 The proceeds arising from the sale of the timber so sold shall be paid to the Treasurer of the State  
84 of West Virginia and shall be credited to the division and used exclusively for the purposes of this  
85 chapter: *Provided*, That nothing contained herein ~~shall~~ may prohibit the sale of timber which  
86 otherwise would be removed from right-of-way's necessary for and strictly incidental to the  
87 extraction of minerals;

88 (14) Sell or lease, with the approval in writing of the Governor, coal, oil, gas, sand, gravel  
89 and any other minerals that may be found in the lands under the jurisdiction and control of the  
90 director, except those lands that are designated as state parks. The director, before making sale  
91 or lease thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal  
92 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the  
93 publication area for such publication shall be each county in which such lands are located. The  
94 minerals so advertised shall be sold or leased to the highest responsible bidder, who shall give  
95 bond for the proper performance of the sales contract or lease as the director shall designate; but  
96 the director ~~shall have the right to~~ may reject any and all bids and ~~to~~ readvertise for bids. The  
97 proceeds arising from any such sale or lease shall be paid to the Treasurer of the State of West  
98 Virginia and shall be credited to the division and used exclusively for the purposes of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

146 (30) Establishing procedures and fee schedule for individuals applying for limited permit  
147 hunts; and

148 (31) Promulgate rules, in accordance with the provisions of §29A-1-1 *et seq.* of this code,  
149 to implement and make effective the powers and duties vested in him or her by the provisions of



150 this chapter and take such other steps as may be necessary in his or her discretion for the proper  
151 and effective enforcement of the provisions of this chapter.

NOTE: The purpose of this bill is to authorize the Director of the Division of Natural Resources to establish procedures and a fee schedule for individuals applying for limited permit hunts.

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