WEST virginia legislature

2021 regular session

Introduced

House Bill 2631

By Delegates Hott, D. Kelly, Graves, B. Ward, Westfall, Dean, Paynter, Hamrick, Phillips, Mandt and Pritt

[Introduced February 22, 2021; Referred to the Committee on Agriculture and Natural Resources then the Judiciary]

A Bill to amend and reenact § 20-1-7e of the Code of West Virginia, 1931, as amended, relating to allowing off duty Natural Resources Police Officers of the Law Enforcement Section of the West Virginia Division of Natural Resources to contract to work for a private person or entity during off duty hours if the type of the contract work does not violate Division of Natural Resources Law Enforcement Section rules as to location or nature.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. law enforcement, motorboating, litter.

§20-7-1e. Natural resources police ~~officer~~ officers failure to perform duties;~~performing duties for private persons~~ penalty; providing extraordinary law enforcement or security services by contract.

(a) Any natural resources police officer ~~who hires himself or herself to any person, firm or corporation to guard private property, or~~ who demands or receives from any person, firm or corporation any money or other thing of value as a consideration for the performance of, or the failure to perform, his or her duties under the regulations of the chief natural resources police officer and the provisions of this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $25 nor more than $200, or confined in jail for not more than four months, or both fined and confined.

(b) Notwithstanding any other provision of this section to the contrary, the chief natural resources police officer may contract with the public, quasi-public, military or private entities to provide extraordinary law enforcement or security services by the Division of Natural Resources when it is determined by the chief natural resources police officer to be in the public interest. The chief natural resources police officer may assign personnel, equipment or facilities, and the division shall be reimbursed for the wages, overtime wages, benefits and costs of providing the contract services as negotiated between the parties. The compensation paid to natural resources police officers by virtue of contracts provided in this section shall be paid from a special account and are excluded from any formulation used to calculate an employee’s benefits. All requests for obtaining extraordinary law enforcement or security services shall be made to the chief natural resources police officer in writing and shall explain the funding source and the authority for making the request. No officer of the division is required to accept any assignment made pursuant to this subsection. Every officer assigned to duty hereunder shall be paid according to the hours and overtime hours actually worked notwithstanding that officer’s status as exempt personnel under the “Federal Labor Standards Act” or applicable state statutes. Every contract entered into under this subsection shall contain the provision that in the event of public disaster or emergency where the reassignment to official duty of the officer is required, neither the division nor any of its officers or other personnel are liable for any damages incurred as the result of the reassignment. Further, any entity contracting with the Division of Natural Resources or a Natural Resources Police Officer under this section shall also agree as part of that contract to hold harmless and indemnify the state, Division of Natural Resources and its personnel from any liability arising out of employment under that contract.

The director is authorized to propose legislative rules, subject to approval by the Legislature, in accordance with chapter twenty-nine-a of this code relating to the implementation of contracts entered into pursuant to this subsection: *Provided*, That the rules expressly prohibit private employment of officers in circumstances involving labor disputes. Notwithstanding any provision to this article to the contrary, an officer or member may contract to work for a private person or entity during his or her off duty hours: *Provided, however,* That any such contract work may not be a type prohibited by this code or the rules of the agency on locations and nature of security services provided*.*

NOTE: The purpose of this bill is to authorize off-duty Natural Resource Police Officers to accept employment to provide security services.

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