

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 475

BY SENATOR TARR

[Introduced February 26, 2021; referred
to the Committee on Finance]

1 A BILL to amend and reenact §19-1A-3 of the Code of West Virginia, 1931, as amended, to amend
 2 and reenact §19-1B-8 of said code; to amend said code by adding thereto a new section,
 3 designated §20-1-9a; to amend said code by adding thereto a new section, designated
 4 §21-1-5; to amend said code by adding thereto a new section, designated §22-1-11a; and
 5 to amend and reenact §30-1-10 of said code, all relating to dedicating fees collected by
 6 various agencies and licensing boards to General Revenue Fund; making technical
 7 corrections; providing for exceptions; and setting out an effective date.

Be it enacted by the Legislature of West Virginia:

CHAPTER 19. AGRICULTURE.

ARTICLE 1A. DIVISION OF FORESTRY.

§19-1A-3. Division of Forestry; Division Director; duties, powers, dedication of certain moneys; creation of a special revenue account.

1 (a) The Division of Forestry ~~heretofore created~~ is hereby continued. ~~And, except~~ Except
 2 as otherwise provided in this article, all powers and duties previously exercised by the Director of
 3 Natural Resources ~~under~~ pursuant to §20-1-7(13) and §20-3-1 *et seq.* of this code, except those
 4 powers and duties relating solely to wildlife areas as described in §20-3-3 of this code, ~~heretofore~~
 5 transferred to the Division of Forestry, are ~~hereby~~ continued in the Division of Forestry, except
 6 Kanawha State Forest as hereinafter provided.

7 (b) The Division of Forestry has within its jurisdiction and supervision the state forests,
 8 other forests and woodland areas, the protection of forest areas from injury and damage by fire,
 9 disease, insects and other pestilences and forces, the management of forest areas for natural
 10 resources, conservation and undeveloped recreational activities, administration of the
 11 southeastern interstate forest fire protection compact and other compacts and agreements
 12 relating to forest management and husbandry, and the administration and enforcement of laws
 13 relating to the conservation, development, protection, use and enjoyment of all forest land areas

14 of the state consistent with the provisions of §19-1A-1 and §19-1A-2 of this code.

15 (c) All moneys collected from the sale of timber realized through management of the state-
16 owned forests and the sale of seedlings from the tree nurseries shall be paid into the State
17 Treasury and shall be credited to a special account within the Division of Forestry and used
18 exclusively for the purposes of this article and §20-3-1 *et seq.* of this code. Notwithstanding any
19 provision of this code or rules promulgated pursuant to the provisions of §29A-3-1 *et seq.* of this
20 code to the contrary, effective on July 1, 2021, all fees collected pursuant to the provisions of this
21 section shall be deposited into the General Revenue Fund for appropriation by the Legislature:
22 Provided, That any fees collected pursuant to the provisions of this section and which are used
23 specifically as all or part of the state contribution required for receipt of federal funding are
24 excluded from the requirement that those fees be deposited into the General Revenue Fund.

25 (d) The Division of Forestry has jurisdiction to regulate the growing, digging, collecting,
26 gathering, possession and sale of ginseng as provided in §19-1A-3a of this code.

27 (e) The chief of the Division is the Director of the Division of Forestry who shall be
28 appointed and qualified as provided in §19-1A-5 of this code.

29 (f) The Director of the Division of Forestry shall study means and methods of implementing
30 the provisions of section fifty-three, Article VI of the Constitution of West Virginia, relating to forest
31 lands, and shall prepare and recommend legislation thereon.

32 (g) The Division lines within the state Forests between improved recreation areas under
33 the management of the Division of Natural Resources and the demonstration forests under the
34 management of the Division of Forestry, heretofore established by agreement, are hereby
35 continued with the exception of Kanawha State Forest where the entire forest will be managed by
36 and under the jurisdiction of the Division of Natural Resources for multiple uses and the Division
37 of Natural Resources shall continue to provide recreational opportunities, including, but not limited
38 to, mountain-biking trails, hiking trails, horseback-riding trails and hunting, fishing and trapping
39 lands. The forest may not be designated as a state park or state recreation area; however, any

40 sale of timber from Kanawha State Forest shall continue to be prohibited.

41 (h) In the event of disagreement over the placement of a Division line or dual occupancy
 42 of a building, the disposition shall be decided by the Legislature's Joint Committee on Government
 43 and Finance at a regularly scheduled meeting.

**ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING
 OPERATIONS.**

§19-1B-8. Timbering operations enforcement fund.

1 (a) There is created in the State Treasury a special revolving fund designated the
 2 "Timbering Operations Enforcement Fund." All fees collected pursuant to this article shall be
 3 deposited into the fund: *Provided*, That amounts deposited in the fund which are found from time
 4 to time to exceed the amounts necessary to effectuate the purposes of this article may be
 5 redesignated for other purposes by appropriation by the Legislature.

6 (b) This fund shall be appropriated to the Division of Forestry to be used for the
 7 administration and enforcement of the provisions of this article and for no other purpose.

8 (c) Notwithstanding any provision of this code or rules promulgated pursuant to the
 9 provisions of §29A-3-1 et seq. of this code to the contrary, effective on July 1, 2021, all fees
 10 collected pursuant to the provisions of this section shall be deposited into the General Revenue
 11 Fund for appropriation by the Legislature: *Provided*, That any fees collected pursuant to the
 12 provisions of this section and which are used specifically as all or part of the state contribution
 13 required for receipt of federal funding are excluded from the requirement that those fees be
 14 deposited into the General Revenue Fund.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-9a. Disposition of fees.

1 Notwithstanding any provision of this code or rules promulgated pursuant to the provisions

2 of §29A-3-1 et seq. of this code to the contrary, effective on July 1, 2021, all fees collected
 3 pursuant to the provisions of this chapter shall be deposited into the General Revenue Fund for
 4 appropriation by the Legislature: *Provided*, That the provisions of this section do not apply to §20-
 5 2B-1 et seq. and §20-2C-1 et seq. of this code: *Provided, however*, That any fees collected
 6 pursuant to the provisions of this chapter and which are used specifically as all or part of the state
 7 contribution required for receipt of federal funding are excluded from the requirement that those
 8 fees be deposited into the General Revenue Fund.

CHAPTER 21. LABOR

ARTICLE 1. DIVISION OF LABOR.

§21-1-5. Disposition of fees.

1 Notwithstanding any provision of this code or rules promulgated pursuant to the provisions
 2 of §29A-3-1 et seq. of this code to the contrary, effective on July 1, 2021, all fees collected
 3 pursuant to the provisions of this chapter shall be deposited into the General Revenue Fund for
 4 appropriation by the Legislature: *Provided*, That any fees collected pursuant to the provisions of
 5 this chapter and which are used specifically as all or part of the state contribution required for
 6 receipt of federal funding are excluded from the requirement that those fees be deposited into the
 7 General Revenue Fund.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 1. DEPARTMENT OF ENVIRONMENTAL PROTECTION.

§22-1-11a. Disposition of fees.

1 Notwithstanding any provision of this code or rules promulgated pursuant to the provisions
 2 of §29A-3-1 et seq. of this code to the contrary, effective on July 1, 2021, all fees collected
 3 pursuant to the provisions of this chapter shall be deposited into the General Revenue Fund for
 4 appropriation by the Legislature: *Provided*, That the provisions of this section do not apply to §20-
 5 3-1 et seq., §20-4-1 et seq., and §22-16-1 et seq. of this code: *Provided, however*, That any fees

6 collected pursuant to the provisions of this chapter and which are used specifically as all or part
7 of the state contribution required for receipt of federal funding are excluded from the requirement
8 that those fees be deposited into the General Revenue Fund.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-10. Disposition of money fines; legislative audit; review of board's fee structure.

1 (a) The secretary of every board referred to in this chapter shall receive and account for
2 all money which it derives pursuant to the provisions of this chapter which are applicable to it.
3 With the exception of money received as fines, each board shall pay all money which is collected
4 into a separate special fund of the State Treasury which has been established for each board.
5 This money shall be used exclusively by each board for purposes of administration and
6 enforcement of its duties pursuant to this chapter. Any money received as fines shall be deposited
7 into the General Revenue Fund of the State Treasury. When the special fund of any board
8 accumulates to an amount which exceeds twice the annual budget of the board or \$10,000,
9 whichever is greater, the State Treasurer shall:

10 (1) Transfer the excess amount to the state General Revenue Fund; and

11 (2) Notify the Legislative Auditor that the transfer has been made.

12 (b) (1) Every licensing board which is authorized by the provisions of this chapter shall be
13 subject to audit by the office of the Legislative Auditor.

14 (2) Within a reasonable time after the State Treasurer notifies the Legislative Auditor of a
15 transfer required to be made under this section, the Legislative Auditor shall conduct a review of
16 the fee structure of the applicable board to determine if the amount of the board's fees generate
17 excessive revenue, when compared to the board's normal expenses. If the Legislative Auditor
18 finds that excess revenue is generated, he or she shall report his or her findings to the

19 Legislature's Joint Standing Committee on Government Organization, along with
20 recommendations on how the fees can be adjusted to generate only the amount the board
21 reasonably needs to operate under this chapter.

22 (c) Notwithstanding any provision of this code or rules promulgated pursuant to the
23 provisions of §29A-3-1 et seq. of this code to the contrary, effective on July 1, 2021, all fees
24 collected pursuant to the provisions of this chapter shall be deposited into the General Revenue
25 Fund for appropriation by the Legislature.

NOTE: The purpose of this bill is to require that certain fees be deposited in the General Revenue Fund rather than special revenue accounts to allow appropriation of the funds by the Legislature.

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