WEST VIRGINIA CODE: §20-1-7

§20-1-7. Additional powers, duties and services of director.

NOTE: West Virginia Code §20-1-7 was amended by two bills passed during the 2020 Regular Session of the Legislature. When two acts of the Legislature amend the same section of the Code without express recognition in the bill of the action of the other bill, the Legislative Manager makes no determination as to the appropriate, legal effect of the two acts. Therefore, both versions of this section are set out below.

Senate Bill 586 (passed last on February 28, 2020) amended West Virginia Code §20-1-7 to read as follows:

In addition to all other powers, duties, and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director may:

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

(2) Sign and execute in the name of the state by the Division of Natural Resources any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships, or individuals: *Provided*, That intergovernmental cooperative agreements and agreements with nongovernmental organizations in furtherance of providing a comprehensive program for the exploration, conservation, development, protection, enjoyment, and use of the natural resources of the state are exempt from the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That repair, renovation and rehabilitation of existing facilities, buildings, amenities, and infrastructure necessary to protect public health or safety or to provide uninterrupted enjoyment and public use of state parks, state forests, wildlife management areas, and state natural areas under the jurisdiction of the Division of Natural Resources are exempt from the provisions of §5A-3-1 *et seq.* of this code. Nothing in this section authorizes new construction of buildings and new construction of recreational facilities as defined in §20-5-4 of this code without complying with the provisions of §5A-3-1 *et seq.* of this code.

(3) Conduct research in improved conservation methods and disseminate information matters to the residents of the state;

(4) Conduct a continuous study and investigation of the habits of wildlife and, for purposes of control and protection, to classify by regulation the various species into such categories as may be established as necessary;

(5) Prescribe the locality in which the manner and method by which the various species of wildlife may be taken, or chased, unless otherwise specified by this chapter.

(6) Hold at least six meetings each year at such time and at such points within the state, as

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in the discretion of the Natural Resources Commission may appear to be necessary and proper for the purpose of giving interested persons in the various sections of the state an opportunity to be heard concerning open season for their respective areas, and report the results of the meetings to the Natural Resources Commission before the season and bag limits are fixed by it;

(7) Suspend open hunting season upon any or all wildlife in any or all counties of the state with the prior approval of the Governor in case of an emergency such as a drought, forest fire hazard, or epizootic disease among wildlife. The suspension shall continue during the existence of the emergency and until rescinded by the director. Suspension, or reopening after such suspension, of open seasons may be made upon 24 hours' notice by delivery of a copy of the order of suspension or reopening to the wire press agencies at the state capitol;

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

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

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

(11) Acquire for the state in the name of the Division of Natural Resources by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the Division of Natural Resources, gifts, donations, contributions, bequests, or devises of money, security or property, both real and personal, and any interest in such property, including lands and waters, which he or she deems suitable for the following purposes:

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

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

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

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

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

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

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

(13) Sell timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks and those in the Kanawha State Forest. The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. The director must obtain the written permission of the Governor to sell timber when the appraised value is more than $5,000. The director shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code and the publication area for the publication shall be each county in which the timber is located. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director may reject any and all bids and re-advertise for bids. If the foregoing provisions of this section have been complied with and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he or she deems appropriate, but the sale price may not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section may extend for a period of more than 10 years. And all contracts heretofore entered into by the state for the sale of timber may not be validated by this section if a contract is otherwise invalid. The proceeds arising from the sale of the timber so sold shall be paid to the Treasurer of the State of West Virginia and shall be credited to the division and used exclusively for the purposes of this chapter: *Provided*, That nothing contained herein may prohibit the sale of timber which otherwise would be removed from rights-of-way necessary for and strictly incidental to the extraction of minerals;

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

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

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

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

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

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

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

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

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

(23) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state including, completing the feasibility study for the Beech Fork State Park Lodge as follows:

(a) The director shall convene, prior to October 1, 2019, two public hearings:

(i) An initial public hearing shall be for the purpose of seeking public input regarding options for the construction of a lodge and a conference center, including all available public, private, or public-private partnership (PPP) funding and financing options; and

(ii) A subsequent public hearing at which the feasibility study and any recommendation shall be available for public comment;

(b) The public hearings required by this subdivision must be held in a suitable location reasonably close to Beech Fork State Park so as to accommodate public participation from the citizens of Cabell, Lincoln, and Wayne counties; and

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(c) Upon completion of the feasibility study it shall be submitted by the director to the Joint Committee on Government and Finance on or before December 1, 2019;

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

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

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

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

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

(29) Authorize the payment of all or any part of the reasonable expenses incurred by an employee of the division in moving his or her household furniture and effects as a result of a reassignment of the employee: *Provided*, That no part of the moving expenses of any one such employee may be paid more frequently than once in 12 months;

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

(31) Promulgate rules, in accordance with the provisions of §29A-1-1 *et seq.* of this code, to implement and make effective the powers and duties vested in him or her by the provisions of this chapter and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of the provisions of this chapter;

(32) Exempt designated sections within the Division of Natural Resources from the requirement that all payments must be deposited in a bank within 24 hours for amounts less than $500, notwithstanding any other provision of this code to the contrary: *Provided,* That such designated sections shall make a deposit in any amount no less than every seven working days; and

(33) Cooperate with the State Resiliency Office to the fullest extent practicable to assist that

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office in fulfilling its duties.

Senate Bill 487 (passed last on February 11, 2020) amended West Virginia Code §20-1-7 to read as follows:

In addition to all other powers, duties, and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director may:

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

(2) Sign and execute in the name of the state by the Division of Natural Resources any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships, or individuals: *Provided*, That intergovernmental cooperative agreements and agreements with nongovernmental organizations in furtherance of providing a comprehensive program for the exploration, conservation, development, protection, enjoyment, and use of the natural resources of the state are exempt from the provisions of §5A-3-1 *et seq*. of this code: *Provided, however*, That repair, renovation, and rehabilitation of existing facilities, buildings, amenities, and infrastructure necessary to protect public health or safety or to provide uninterrupted enjoyment and public use of state parks, state forests, wildlife management areas, and state natural areas under the jurisdiction of the Division of Natural Resources are exempt from the provisions of §5A-3-1 *et seq*. of this code. Nothing in this section authorizes new construction of buildings and new construction of recreational facilities as defined in §20-5-4 of this code without complying with the provisions of §5A-3-1 *et seq*. of this code;

(3) Conduct research in improved conservation methods and disseminate information matters to the residents of the state;

(4) Conduct a continuous study and investigation of the habits of wildlife and, for purposes of control and protection, to classify by regulation the various species into such categories as may be established as necessary;

(5) Prescribe the locality in which the manner and method by which the various species of wildlife may be taken, or chased, unless otherwise specified by this chapter;

(6) Hold at least six meetings each year at such time and at such points within the state as, in the discretion of the Natural Resources Commission, may appear to be necessary and proper for the purpose of giving interested persons in the various sections of the state an opportunity to be heard concerning open season for their respective areas, and report the results of the meetings to the Natural Resources Commission before the season and bag limits are fixed by it;

(7) Suspend open hunting season upon any or all wildlife in any or all counties of the state

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with the prior approval of the Governor in case of an emergency such as a drought, forest fire hazard, or epizootic disease among wildlife. The suspension shall continue during the existence of the emergency and until rescinded by the director. Suspension, or reopening after such suspension, of open seasons may be made upon 24 hours' notice by delivery of a copy of the order of suspension or reopening to the wire press agencies at the State Capitol;

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

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

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

(11) Acquire for the state in the name of the Division of Natural Resources by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the Division of Natural Resources, gifts, donations, contributions, bequests, or devises of money, security, or property, both real and personal, and any interest in such property, including lands and waters, which he or she deems suitable for the following purposes:

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

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

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

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

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

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

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

(13) Sell timber for not less than the value thereof, as appraised by a qualified appraiser appointed by the director, from all lands under the jurisdiction and control of the director, except those lands that are designated as state parks and those in the Kanawha State Forest.

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The appraisal shall be made within a reasonable time prior to any sale, reduced to writing, filed in the office of the director and shall be available for public inspection. The director must obtain the written permission of the Governor to sell timber when the appraised value is more than $5,000. The director shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code and the publication area for the publication shall be each county in which the timber is located. The timber so advertised shall be sold at not less than the appraised value to the highest responsible bidder, who shall give bond for the proper performance of the sales contract as the director shall designate; but the director may reject any and all bids and readvertise for bids. If the foregoing provisions of this section have been complied with and no bid equal to or in excess of the appraised value of the timber is received, the director may, at any time, during a period of six months after the opening of the bids, sell the timber in such manner as he or she deems appropriate, but the sale price may not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section may extend for a period of more than 10 years. And all contracts heretofore entered into by the state for the sale of timber may not be validated by this section if a contract is otherwise invalid. The proceeds arising from the sale of the timber so sold shall be paid to the Treasurer of the State of West Virginia and shall be credited to the division and used exclusively for the purposes of this chapter: *Provided*, That nothing contained herein may prohibit the sale of timber which otherwise would be removed from rights-of-way necessary for and strictly incidental to the extraction of minerals;

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

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

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

(17) Report to the Governor each year all information relative to the operation and functions of the division, and the director shall make such other reports and recommendations as may be required by the Governor, including an annual financial report covering all receipts and

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disbursements of the division for each fiscal year, and he or she shall deliver the report to the Governor on or before December 1 next after the end of the fiscal year so covered. A copy of the report shall be delivered to each house of the Legislature when convened in January next following;

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

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

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

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

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

(23) Encourage and cooperate with other public and private organizations or groups in their efforts to publicize the attractions of the state, including completing the feasibility study for the Beech Fork State Park Lodge as follows:

(A) The director shall convene, prior to October 1, 2019, two public hearings:

(i) An initial public hearing shall be for the purpose of seeking public input regarding options for the construction of a lodge and a conference center, including all available public, private, or public-private partnership (PPP) funding and financing options; and

(ii) A subsequent public hearing at which the feasibility study and any recommendation shall be available for public comment;

(B) The public hearings required by this subdivision must be held in a suitable location reasonably close to Beech Fork State Park so as to accommodate public participation from the citizens of Cabell, Lincoln, and Wayne counties; and

(C) Upon completion of the feasibility study, it shall be submitted by the director to the Joint Committee on Government and Finance on or before December 1, 2019;

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

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

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

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

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

(29) Authorize the payment of all or any part of the reasonable expenses incurred by an employee of the division in moving his or her household furniture and effects as a result of a reassignment of the employee: *Provided*, That no part of the moving expenses of any one such employee may be paid more frequently than once in 12 months;

(30) Establish procedures and fee schedules for individuals applying for limited permit hunts;

(31) Exempt designated sections within the Division of Natural Resources from the requirement that all payments must be deposited in a bank within 24 hours for amounts less than $500, notwithstanding any other provision of this code to the contrary: *Provided,* That such designated sections shall make a deposit in any amount no less than every seven working days; and

(32) Promulgate rules, in accordance with the provisions of §29A-1-1 *et seq*. of this code, to implement and make effective the powers and duties vested in him or her by the provisions of this chapter and take such other steps as may be necessary in his or her discretion for the proper and effective enforcement of the provisions of this chapter.

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