WEST VIRGINIA CODE CHAPTER 20 ARTICLE 1

WV Legislature

§20-1-1. Purposes and objects of chapter; how chapter cited.

This chapter is enacted to provide a comprehensive program for the exploration, conservation, development, protection, enjoyment and use of the natural resources of the State of West Virginia and may be cited as the state Natural Resources Law.

WV Legislature

§20-1-2. Definitions.

As used in this chapter, unless the context clearly requires a different meaning:

"Agency" means any branch, department or unit of the state government, however designated or constituted.

"Alien" means any person not a citizen of the United States.

"Bag limit" or "creel limit" means the maximum number of wildlife which may be taken, caught, killed or possessed by any person.

"Big game" means elk, deer, black bears, wild boars and wild turkeys.

"Bona fide resident, tenant or lessee" means a person who permanently resides on the land.

"Citizen" means any native-born citizen of the United States and foreign-born persons who have procured their final naturalization papers.

"Closed season" means the time or period during which it shall be unlawful to take any wildlife as specified and limited by this chapter.

"Commission" means the Natural Resources Commission.

"Commissioner" means a member of the advisory commission of the Natural Resources Commission.

"Director" means the Director of the Division of Natural Resources.

"Fishing" or "to fish" means the taking, by any means, of fish, minnows, frogs or other amphibians, aquatic turtles and other forms of aquatic life used as fish bait.

"Fur-bearing animals" includes: (a) The mink; (b) the weasel; (c) the muskrat; (d) the beaver; (e) the opossum; (f) the skunk and civet cat, commonly called polecat; (g) the otter; (h) the red fox; (i) the gray fox; (j) the wildcat, bobcat or bay lynx; (k) the raccoon; (l) the fisher; and (m) canis latrans var., more commonly known as the coyote.

"Game" means game animals, game birds and game fish as herein defined.

"Game animals" includes: (a) The elk; (b) the deer; (c) the cottontail rabbits and hares; (d) the fox squirrels, commonly called red squirrels, and gray squirrels and all their color phases - red, gray, black or albino; (e) the raccoon; (f) the black bear; (g) the wild boar; and (h) the marmot monax, more commonly known as woodchuck or groundhog. The term "game animals" does not include captive cervids regulated pursuant to article two-h, chapter nineteen of this code.

"Game birds" includes: (a) The anatidae, commonly known as swan, geese, brants and river

WV Legislature

and sea ducks; (b) the rallidae, commonly known as rails, sora, coots, mudhens and gallinule; (c) the limicolae, commonly known as shorebirds, plover, snipe, woodcock, sandpipers, yellow legs and curlews; (d) the galliformes, commonly known as wild turkey, grouse, pheasants, quails and partridges (both native and foreign species); (e) the columbidae, commonly known as doves; (f) the icteridae, commonly known as blackbirds, redwings and grackle; and (g) the corvidae, commonly known as crows.

"Game fish" includes: (a) Brook trout; (b) brown trout; (c) rainbow trout; (d) golden rainbow trout; (e) largemouth bass; (f) smallmouth bass; (g) spotted bass; (h) striped bass; (i) chain pickerel; (j) muskellunge; (k) walleye; (l) northern pike; (m) rock bass; (n) white bass; (o) white crappie; (p) black crappie; (q) all sunfish species; (r) channel catfish; (s) flathead catfish; (t) blue catfish; (u) sauger; and (v) all game fish hybrids.

"Hunt" means to pursue, chase, catch or take any wild birds or wild animals. However, the definition of "hunt" does not include an officially sanctioned and properly licensed field trial, water race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

"Lands" means land, waters and all other appurtenances connected therewith.

"Migratory birds" means any migratory game or nongame birds included in the terms of conventions between the United States and Great Britain and between the United States and United Mexican States, known as the Migratory Bird Treaty Act, for the protection of migratory birds and game mammals concluded, respectively, August 16, 1916, and February 7, 1936.

"Nonresident" means any person who is a citizen of the United States and who has not been a domiciled resident of the State of West Virginia for a period of thirty consecutive days immediately prior to the date of his or her application for a license or permit except any full-time student of any college or university of this state, even though he or she is paying a nonresident tuition.

"Open season" means the time during which the various species of wildlife may be legally caught, taken, killed or chased in a specified manner and shall include both the first and the last day of the season or period designated by the director.

"Person", except as otherwise defined elsewhere in this chapter, means the plural "persons" and shall include individuals, partnerships, corporations or other legal entities.

"Preserve" means all duly licensed private game farmlands, or private plants, ponds or areas, where hunting or fishing is permitted under special licenses or seasons other than the regular public hunting or fishing seasons. The term "preserve" does not include captive cervid farming facilities regulated pursuant to article two-h, chapter nineteen of this code.

"Protected birds" means all wild birds not included within the definitions of "game birds" and "unprotected birds".

WV Legislature

"Resident" means any person who is a citizen of the United States and who has been a domiciled resident of the State of West Virginia for a period of thirty consecutive days or more immediately prior to the date of his or her application for license or permit. However, a member of the Armed Forces of the United States who is stationed beyond the territorial limits of this state, but who was a resident of this state at the time of his or her entry into such service and any full-time student of any college or university of this state, even though he or she is paying a nonresident tuition, shall be considered a resident under this chapter.

"Roadside menagerie" means any place of business, other than a commercial game farm, commercial fish preserve, place or pond, where any wild bird, game bird, unprotected bird, game animal or fur-bearing animal is kept in confinement for the attraction and amusement of the people for commercial purposes.

"Small game" includes all game animals, fur-bearing animals and game birds except elk, deer, black bears, wild boars and wild turkeys.

"Take" means to hunt, shoot, pursue, lure, kill, destroy, catch, capture, keep in captivity, gig, spear, trap, ensnare, wound or injure any wildlife, or attempt to do so. However, the definition of "take" does not include an officially sanctioned and properly licensed field trial, water race or wild hunt as long as that field trial is not a shoot-to-retrieve field trial.

"Unprotected birds" shall include: (a) The English sparrow; (b) the European starling; and (c) the cowbird.

"Wild animals" means all mammals native to the State of West Virginia occurring either in a natural state or in captivity, except house mice or rats, and includes coyotes and porcupines and all species of cervids. The term "wild animals" does not include captive cervids owned and possessed by persons licensed pursuant to article two-h, chapter nineteen of this code.

"Wild birds" shall include all birds other than: (a) Domestic poultry — chickens, ducks, geese, guinea fowl, peafowls and turkeys; (b) psittacidae, commonly called parrots and parakeets; and (c) other foreign cage birds such as the common canary, exotic finches and ring dove. All wild birds, either: (i) Those occurring in a natural state in West Virginia; or (ii) those imported foreign game birds, such as waterfowl, pheasants, partridges, quail and grouse, regardless of how long raised or held in captivity, shall remain wild birds under the meaning of this chapter.

"Wildlife" means wild birds, wild animals, game and fur-bearing animals, fish (including minnows), reptiles, amphibians, mollusks, crustaceans and all forms of aquatic life used as fish bait, whether dead or alive. The term "wildlife" does not include captive cervids regulated pursuant to article two-h, chapter nineteen of this code.

"Wildlife refuge" means any land set aside by action of the director as an inviolate refuge or sanctuary for the protection of designated forms of wildlife.

WV Legislature

§20-1-3. Division of natural resources, office of director and commission established.

A Division of Natural Resources, the office of director of the Division of Natural Resources and a natural resources commission are hereby created and established in the state government with jurisdiction, powers, functions, services and enforcement processes as provided in this chapter and elsewhere by law.

WV Legislature

§20-1-4. Director to be chief executive officer; appointment, term and qualifications; vacancy; removal.

The director shall be the chief executive officer of the department. Subject to provisions of law, he shall organize the department into such offices, divisions, agencies and other units of activity as may be found by him necessary and desirable in the orderly, efficient and economical administration of the department for the accomplishment of its objects and purposes.

The director shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue to serve until his successor is appointed and qualified as provided. On or before July 1, 1961, the Governor shall appoint the director for a term ending on December 31, 1962. Upon the expiration of such term, the Governor shall appoint the director for a term of four years commencing on January 1, 1963, and, upon the expiration thereof, for successive terms of four years each next thereafter. A vacancy occurring in the office during any term thereof shall be filled by appointment as herein provided for the remainder of such term.

The director may be removed from office by the Governor for cause as provided in the Constitution. At the time of his initial appointment, he shall be at least thirty years old and shall be selected with special reference and consideration given to his training, experience, capacity and interest in the natural resources program as herein embraced. He shall not be a candidate for or hold any other public office, shall not be a member of any political party committee, and shall immediately forfeit and vacate his office as director in the event he becomes a candidate for or accepts appointment to any other public office or political party committee.

WV Legislature

§20-1-5. Salary, expenses, oath and bond of director.

The director shall receive an annual salary as provided in section two-a, article seven, chapter six of this code, payable at least twice per month and shall be allowed and paid necessary expenses incident to the performance of his or her official duties. Prior to the assumption of the duties of his or her office, he or she shall take and subscribe to the oath required of public officers by the Constitution of West Virginia and shall execute a bond, with surety approved by the Governor, in the penal sum of $10,000, which executed oath and bond shall be filed in the office of the Secretary of State. Premiums on the bond shall be paid from division funds.

WV Legislature

§20-1-6. Offices and office hours.

The director shall arrange with the General Services Division of the department of finance and administration for adequate office space, accommodations and facilities for the department of natural resources in the State Capitol offices. The department of finance and administration shall make such office accommodations and facilities available and shall provide for orderly servicing and maintenance thereof. The offices of the director and of the department shall be opened and staffed for business transactions and services during regular hours.

WV Legislature

§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 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

www.legislature

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;

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

WV Legislature

(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;

(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

(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;

WV Legislature

(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 office in fulfilling its duties.

WV Legislature

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 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

WV Legislature

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. 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

WV Legislature

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 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

WV Legislature

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;

(25) Cooperate with the state historian and other appropriate state agencies in conducting

WV Legislature

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.

WV Legislature

§20-1-8. Personnel management.

A merit system of personnel management shall be established and maintained for all personnel of the department in order to ensure and provide for impartial selection of competent and qualified personnel and to accord to all department employees rights of tenure and advancement during satisfactory discharge of their duties.

In lieu of establishment of a merit system of personnel management for the department, the director may resort to and rely upon the civil service commission and civil service system for personnel and personnel services of the department.

The director may select a personal secretary and two deputy directors of the department to serve at the director's will and pleasure. The director shall fix the compensation of the secretary and the two deputy directors and shall prescribe their duties and responsibilities. The director, the secretary and the two deputy directors shall not have and enjoy merit system status, as herein provided, but any deputy director, when selected from department personnel ranks, shall retain and be accorded all of the rights of his merit system status regardless of his selection and tenure as deputy director.

The director shall select and designate a competent and qualified person as department personnel officer who shall be responsible for personnel management, personnel records and general personnel services. The personnel officer, under supervision of the director and subject to merit system rules, regulations and requirements, shall prescribe qualifications, classifications and salary scales for department personnel. He shall furnish to the director information and data relating to qualified personnel available for the various offices, positions and places of employment and may make recommendations concerning the selection, retention and advancement of personnel of the department.

WV Legislature

§20-1-9. Fiscal management.

Subject to any controlling rules and regulations of the department of finance and administration relating to state fiscal management policies and practices, the director shall establish in the department an adequate budget, finance and accounting system which will currently and accurately reflect the fiscal operations and conditions of the department at all times. The department's accounting and auditing services shall be on a fiscal-year basis.

The director shall select and designate a competent and qualified person as department fiscal officer who, under the supervision of the director, shall be responsible for all budget, finance and accounting services of the department. All moneys received by the department shall be recorded and shall be paid as special revenue to the department of natural resources, as provided in subdivision (i), section two, article two, chapter twelve of this code, except in cases wherein certain receipts of the department are by specific provisions of this chapter required to be paid into some special fund or funds.

WV Legislature

§20-1-10. Property management.

(a) The division shall maintain at all times an accurate record of all of its lands, interests in lands, buildings, structures, equipment and other tangible properties and assets. The record shall reflect the location, utility, condition and estimated value of all such properties and assets. The division shall provide for the maintenance, preservation and custody of all such properties and assets.

(b) Subject to the provisions of §20-1-19 of this code, when any item or items or lands are deemed obsolete or are no longer needed the division shall have the authority, with the approval in writing of the Secretary of Commerce, to sell, lease, or otherwise dispose of property that is under the jurisdiction and control of the director. The director may convey property in exchange for 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 purposes of the division.

(c) The director shall select and designate a competent and qualified person as division property officer, who shall be responsible for the division's records relating to its properties and assets and for the maintenance, preservation, custody and disposition of all such properties and assets as herein provided.

(d) Subject to valid existing rights, division owned wildlife management area lands shall be open to access and use for recreational hunting and shooting except as limited by the division for reasons of public safety, fish and wildlife management or homeland security or as otherwise limited by law.

(e) The division shall exercise its authority consistent with subsection (d) to support, promote and enhance recreational hunting and shooting opportunities, to the extent authorized by statute. The division shall give preference to hunting and shooting over other uses of division owned wildlife management area lands.

(f) Division land management decisions and actions may not result in a net loss of habitat land acreage available for hunting and shooting opportunities on division owned wildlife management area lands that exists on the effective date of this section.

(g) On or before December 1, the division shall submit an annual report to the Governor and to the Joint Committee on Government and Finance, including the following:

(1) The acreage administered by the division that has been closed during the previous year to recreational hunting and the reasons for the closures; and

(2) The acreage administered by the division that, in order to comply with the provisions of subsection (f) was opened to recreational hunting to compensate for that acreage.

WV Legislature

§20-1-10a. Authority to convey land to county board of education for educational purposes.

To further an appreciation and understanding of the outdoors by the youth of this state, the director is hereby authorized to enter into long-term agreements, with the written approval of the Governor, leasing unto the county board of education of any county wherein are situate lands belonging to the department of natural resources, for nominal consideration, one parcel of rural land not exceeding in size one acre for each five hundred students registered in the public schools of the county at the time of the lease. Such land shall be used by the county board of education exclusively to establish and maintain an outdoor education program and for no other purpose. By a multicounty agreement, the county boards of education of any county or counties in which no land belonging to the department of natural resources is located may join with any other county or counties in which such land is located to establish and maintain a joint outdoor education program and the combined student enrollment of the counties joining into such an agreement shall determine the maximum acreage that may be leased by the department of natural resources for such purposes.

If the department of natural resources makes a finding that land leased pursuant to this section has ceased to be used for the purposes set forth herein for a period of three consecutive years, the director shall notify the affected county board or boards of education of such a finding in writing. Upon the expiration of sixty days from receipt of said notice, such lease shall become null and void and control of such leased land shall revert to the department of natural resources unless the affected board or boards of education have petitioned the circuit court of the county wherein the land or the greater portion thereof lies for review of the said finding.

Upon petition and hearing, the said circuit court shall determine whether the land has ceased to be used for the purposes set forth in this section. Periodic or incidental use of the land for less than six months of each calendar year shall not be sufficient to support a finding that the land has ceased to be used for the purposes set forth herein. If the said circuit court determines that the land has ceased to be used for the purposes set forth herein, the court shall, by written order, declare the lease null and void and reinstate control of the leased land in the department of natural resources.

WV Legislature

§20-1-11. Public relations.

The department shall collect, organize and from time to time distribute to the public, through news media or otherwise, interesting facts, information and data concerning the natural resources of the state and the functions and services of the department. The director may organize and promote lectures, demonstrations, symposiums, schools and other educational programs relating to the state's natural resources. Motion pictures, slide films and other photographic services may be provided for instruction on natural resources for schools, other governmental agencies, and civic organizations under such rules and regulations as may be prescribed by the director.

The director shall select and designate a competent and qualified person as department public relations officer, who shall be responsible for the organization and management of the department's public relations program. He may prepare and distribute from time to time pamphlet materials and other compilations and publications of the department and may cooperate with other governmental agencies in the publication and distribution of such materials.

WV Legislature

§20-1-12. Surveys and planning.

As departmental projects or in cooperation with other governmental or private agencies, the director may organize and promote surveys and explorations relating to the state's natural resources, their utility, development and protection. The state geological and economic survey commission, the department of mines, the Department of Agriculture, the Department of Commerce and other governmental agencies and activities shall cooperate, whenever and wherever practicable to do so, with the department in its survey and exploration work.

The director shall select and designate a competent and qualified person as department surveys officer who shall be responsible for the organization, promotion and correlation of the surveys and explorations as herein provided. He shall work closely with other offices and divisions of the department in order to effect maximum development, utilization, protection and enjoyment of the state's natural resources.

WV Legislature

§20-1-13. Law enforcement and legal services.

The director shall select and designate a competent and qualified person to be the chief natural resources police officer, who has the title of colonel and who is responsible for the prompt, orderly and effective enforcement of all of the provisions of this chapter. Under the supervision of the director and subject to personnel qualifications and requirements otherwise prescribed in this chapter, the chief natural resources police officer is responsible for the selection, training, assignment, distribution and discipline of natural resources police officers and the effective discharge of their duties in carrying out the law-enforcement policies, practices and programs of the division in compliance with the provisions of article seven of this chapter and other controlling laws. Except as otherwise provided in this chapter, natural resources police officers are authorized to enter into and upon private lands and waters to investigate complaints and reports of conditions, conduct, practices and activities considered to be adverse to and violative of the provisions of this chapter and to execute writs and warrants and make arrests thereupon.

The Attorney General and his or her assistants and the prosecuting attorneys of the several counties shall render to the director, without additional compensation, legal services as the director may require of them in the discharge of his or her duties and the execution of his or her powers under and his or her enforcement of the provisions of this chapter. The director, in an emergency and with prior approval of the Attorney General, may employ an attorney to act in proceedings wherein criminal charges are brought against personnel of the department because of action in line of duty. For the attorney services, a reasonable sum, not exceeding $2,500, may be expended by the director in any one case.

The director, if he or she considers the action necessary, may request the Attorney General to appoint an assistant attorney general, who shall perform, under the supervision and direction of the Attorney General, the duties as may be required of him or her by the director. The Attorney General, in pursuance of the request, may select and appoint an assistant attorney general to serve at the will and pleasure of the Attorney General, and the assistant shall receive a salary to be paid out of any funds made available for that purpose by the Legislature to the department.

WV Legislature

§20-1-14. Sections within division.

Sections of wildlife resources and of law enforcement are hereby continued within the Division of Natural Resources. Subject to provisions of law, the director of the Division of Natural Resources shall allocate the functions and services of the division to the sections, offices and activities thereof and may from time to time establish and abolish other sections, offices and activities within the division in order to carry out fully and in an orderly manner the powers, duties and responsibilities of the office as director. The director shall select and designate a competent and qualified person to be chief of each section. The chief is the principal administrative officer of that section and is accountable and responsible for the orderly and efficient performance of the duties, functions and services thereof.

WV Legislature

§20-1-15.

Repealed.

Acts, 1989 Reg. Sess., Ch. 135.

WV Legislature

§20-1-16. Natural Resources Commission - generally.

(a) The Natural Resources Commission, created and established by §20-1-3 of this code, shall be a public benefit corporation and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and have and use a common seal. It shall be a commission advisory to the director and to the Division of Natural Resources. The commission shall be composed of seven members, known as commissioners, one from each division of natural resources district and the remainder from the state at large, and shall be appointed to provide the broadest geographic distribution possible so that each commissioner shall attend the division sectional meetings established in §20-1-7(6) of this code within his or her respective district.

(b) The Governor, with the advice and consent of the Senate, shall appoint the seven members for the following terms beginning July 1, 2021:

(1) Three for a term of four years;

(2) Two for a term of three years; and

(3) Two for a term of two years.

(4) Successors to appointed members whose terms expire shall be appointed for terms of four years. Any commissioner whose term has expired shall serve until his or her successor has been appointed. An appointed commissioner may not serve more than two consecutive terms. Vacancies shall be filled for any unexpired term. Appointment to fill a vacancy shall not be considered as one of two full terms. Any commissioner who has served two or more consecutive terms immediately preceding the effective date of this section shall not be excluded from consideration for initial appointment under this section.

(c) The members of the commission shall be citizens and residents of the state, and shall be selected with special emphasis on his or her interest in the conservation of the natural resources of the state. No member of the commission shall be a candidate for or hold any public office other than that of member of the commission; nor shall he or she be a member of any committee of a political party. In case a member becomes a candidate for or accepts appointment to any public office or political party committee, his or her position as member of the commission shall be immediately vacated. The Director of the Division of Natural Resources may submit recommendations to the Governor for the appointment of the commissioners.

(d) Commissioners are not entitled to compensation for services performed for the commission, but may be reimbursed by the Division of Natural Resources for actual and necessary expenses incurred for each day in which he or she is engaged in the discharge of official duties, the actual expenses not to exceed the amount paid similar reimbursement to members of the Legislature.

WV Legislature

§20-1-17. Natural Resources Commission -- Organization and services.

(a) Members of the Natural Resources Commission shall take and subscribe to the public officer's oath prescribed by the Constitution before entering upon the duties of their office. All such executed oaths shall be filed in the office of the Secretary of State. Members of the Commission shall receive no compensation as such, but each shall be reimbursed for his or her actual and necessary traveling expenses incurred in the performance of his or her official duties.

(b) The Director of the Division shall be ex officio a member of the Commission and its presiding officer. A majority of the Commission shall constitute a quorum for transaction of business. Four regular meetings of the Commission shall be held each year One meeting shall be held in each quarter of the calender year. The date of the meeting shall be at the discretion of the Director of the Division of Natural Resources. Special meetings may be convened by the Governor, the Director or by a majority of the Commission. The meetings of the Commission shall be regularly held at locations designated by the Director. The time and place of the meeting shall be announced in accordance with section one, article nine-a, chapter six, et seq., of this code. The Director shall furnish all articles and supplies required by the Commission in the performance of its duties and shall provide necessary stenographic, secretarial and clerical assistance therefor. All such materials and services shall be paid for from Department funds.

The Director, at any regular or special meeting of the Commission, may submit to the Commission any program or policy matters on which he or she wishes to obtain the advice, counsel and opinion of the Commission and may consult with members of the Commission on functions, services, policies and practices of the Department at any time. The Commission shall serve as a body advisory to the Director and shall perform all other duties assigned to it by law. It shall have the following powers and duties:

(1) To consider and study the entire field of legislation and administrative methods concerning the forests and their maintenance and development, the protection of fish and game, the beautification of the state and its highways, and the development of lands, minerals, waters and other natural resources;

(2) To advise with the Director concerning the conservation problems of particular localities or districts of the state;

(3) To recommend policies and practices to the Director relative to any duties imposed upon him or her by law;

(4) To investigate the work of the Director, and for this purpose to have access at reasonable times to all official books, papers, documents and records;

(5) To advise or make recommendations to the Governor relative to natural resources of the state;

WV Legislature

(6) To keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the Director; and

(7) To fix by regulation which it is hereby empowered to promulgate, in accordance with the provisions of chapter twenty-nine-a of this code, the open seasons and the bag, creel, size, age, weight and sex limits with respect to wildlife in this state.

WV Legislature

§20-1-18. Government cooperation; projects; finances; properties.

In addition to all other powers and authority vested in the director, he is hereby authorized and empowered to represent and advance the interests of the State of West Virginia under provisions of acts of Congress now in force or hereafter enacted providing for cooperation between the governments of the United States and of the several states in the exploration, development, conservation, use and enjoyment of natural resources. He may acquire by purchase or lease, as in this chapter provided, such lands, interests in lands, forests, parks, recreational facilities, wildlife and water areas and such other properties within this state as may be required in cooperative programs with any other government or governments, and, with the approval of the Governor, may negotiate and effect self-liquidating loans with the government of the United States or any agency or agencies thereof for the procurement, development and use of all such properties. All such projects shall be in the interest and for the benefit of the state and may be geared and timed to relieve economic hardship and unemployment.

In order to consolidate forest tracts under either state or federal administration, the director may sell, purchase or exchange stumpage or lands within or adjacent to any national forest purchase area.

The director shall study the land and water boundary areas of the state and, where practicable, cooperate with adjacent states in programs for the development, conservation and use of waters, forests, minerals, wildlife and other natural resources.

WV Legislature

§20-1-18a. Cooperation with federal government in wildlife restoration and management.

The state of West Virginia hereby assents to the provisions of the act of Congress entitled, "An act to provide that the United States shall aid the states in wildlife restoration projects and for other purposes," approved September 2, 1937 (Public Law number four hundred fifteen, seventy-fifth Congress), and the director is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said act of Congress, in compliance with said act and with rules and regulations promulgated by the secretary of the interior thereunder. Funds accruing to the state from license fees paid by hunters shall not be diverted for any other purposes than those stated in section thirty-four, article two of this chapter.

WV Legislature

§20-1-18b. Cooperation with federal government in fish restoration and management.

The state of West Virginia hereby assents to the provisions of the act of Congress entitled, "An act to provide that the United States shall aid the states in fish restoration and management projects and for other purposes," (Public Law number six hundred eighty-one, eighty-first Congress), and the director is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of fish restoration and management projects as defined in said act of Congress, in compliance with said act and with rules and regulations promulgated by the secretary of the interior thereunder. Funds accruing to the state from license fees paid by fishermen shall not be diverted for any purposes other than those stated in section thirty-four, article two of this chapter.

WV Legislature

§20-1-18c. Cooperation with federal government in management of federal lands within the state.

The Legislature recognizes that there are large areas of this state that are owned by or under the control of the government of the United States. In order to cooperate with the various federal agencies which have jurisdiction over these areas and to effectively enforce rules and regulations to protect these areas, the Legislature hereby authorizes the director to adopt such rules and regulations as are necessary to cooperate in all law enforcement activities with the various federal agencies. Such rules and regulations shall be adopted according to the administrative procedures act as provided in chapter twenty-one-a of this code. To the extent that any rules and regulations adopted by the director are identical to existing federal rules and regulations, they may be promulgated without the procedures required under the administrative procedures act except that there shall be public notice of the adoption of such regulations and they shall be filed in the office of the Secretary of State.

WV Legislature

§20-1-18d.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§20-1-19. West Virginia state parks and state forests.

(a) The state parks of West Virginia are:

(1) Audra; (2) Babcock; (3) Beartown; (4) Beech Fork; (5) Berkeley Springs; (6) Blackwater Falls; (7) Blennerhassett Island Historical; (8) Bluestone; (9) Cacapon Resort; (10) Camp Creek; (11) Canaan Valley Resort; (12) Carnifex Ferry Battlefield; (13) Cass Scenic Railroad; (14) Cathedral; (15) Cedar Creek; (16) Chief Logan; (17) Droop Mountain Battlefield; (18) Fairfax Stone Historical Monument; (19) Hawks Nest; (20) Holly River; (21) Little Beaver; (22) Lost River; (23) Moncove Lake; (24) North Bend; (25) Pinnacle Rock; (26) Pipestem Resort; (27) Prickett's Fort; (28) Stonewall Resort; (29) Summersville Lake; (30) Tomlinson Run; (31) Tu-Endie-Wei (Point Pleasant Battle Monument); (32) Twin Falls Resort; (33) Tygart Lake; (34) Valley Falls; (35) Watoga; and (36) Watters Smith Memorial.

(b) The state forests of West Virginia are:

(1) Cabwaylingo; (2) Calvin Price; (3) Camp Creek; (4) Coopers Rock; (5) Greenbrier; (6) Kanawha; (7) Kumbrabow; (8) Panther Forest/WMA, consisting of approximately twenty-six acres containing park facilities; and (9) Seneca.

(c) Neither the director nor any officer, employee or agent of the Division of Natural Resources may close, change the name or the designated use of a state park or state forest without statutory authorization.

WV Legislature

§20-1-20. Limitations on state parks and state forests; exceptions.

(a)(1) The Legislature finds that the acquisition of land to construct new or expand existing state parks and state forests is costly. After these areas are constructed, they must be maintained and personnel must be employed to operate the facilities. These costs continue to increase and place a burden on state revenues.

(2) The Legislature declares that there is an ultimate limit to how many state parks and state forests, based upon its size, population and financial resources, the State of West Virginia can support. Further, the Legislature hereby declares that it is within its authority to establish, provide for and maintain limits on state parks and state forests.

(b) Without written notice to the Joint Committee on Government and Finance, neither the director nor an officer, employee or agent of the Division of Natural Resources may:

(1) Acquire, or authorize the acquisition of, land for any new state park or state forest; or

(2) Construct, or authorize the construction of, any new facility or building in any state park or state forest.

(c) Notice to the Joint Committee on Government and Finance is not required for the following acquisitions and construction projects:

(1) The director may authorize the construction of any new facility or building that is constructed with donated funds, materials and labor in an existing state park or state forest; and

(2) The director may construct or authorize the construction of any new facility or building built by state employees when the total cost of materials does not exceed $25,000.

(d) Nothing in this section shall prohibit the director from expending any appropriations that are designated to complete land acquisitions or the construction of facilities and buildings, including electric, water and sewage systems for state parks and state forests.

(e) The director shall require that any new building has a roof of sufficient slope in accordance with the current state building code.

WV Legislature

§20-1-21.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§20-1-22. Authorizing the director to lease and develop pore spaces.

(a) The director may, with the approval in writing of the Secretary of Commerce, lease state-owned pore spaces underlying state forests, natural and scenic areas, wildlife management areas, and other lands under the jurisdiction and control of the director for underground carbon sequestration: *Provided*, That the director may not permit the disturbance of the surface of state park property for any drilling or injection activity. Before entering into a lease, the director shall receive sealed bids therefor, after notice by publication as a Class I 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 the affected lands are located, and on the division's main website for a period of at least 14 days prior to entering into any lease pursuant to this section. The pore space development proposal so advertised shall be leased to the highest responsible bidder, who shall give bond for the proper performance of the lease as the director shall designate; but the director may reject any and all bids and re-advertise for bids. The development of pore spaces pursuant to this section shall be consistent with the requirements of §22-11B-1 *et seq*. of this code. The proceeds arising from any such lease shall be paid to the Treasurer of the State of West Virginia and shall be credited to the division and used exclusively for improvements and maintenance in the state forests, state parks, natural and scenic areas, wildlife management areas, and other lands under the jurisdiction and control of the director where the leased pore space is located.

(b) Notwithstanding the competitive bidding process established in subsection (a) of this section, the director may, with the approval in writing of the Secretary of the Department of Commerce, directly award a pore space lease when the Secretary of the Department of Commerce and the Secretary of the Department of Economic Development certifies in writing to the director that the lease is a necessary component of an economic development project: *Provided*, That the lease shall afford a market value or greater royalty.

(c) The center of any well pad leased in accordance with subsection (a) of this section for pore space underlying state parks may not be located within 200 feet of a state park boundary: *Provided*, That the Secretary of the Department of Commerce, in consultation with the Director of the Division of Natural Resources, may waive this requirement after considering the impact of the lessee’s proposed well-site location on viewshed, noise, and other possible impediments to the public use and enjoyment of the state park property.

WV Legislature