ENROLLED

Senate Bill No. 36
(By Mr. Gainer)

[Passed February 14, 1975; in effect July 1, 1975.]

AN ACT to amend and reenact sections seven and seventeen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to transferring from the director of the department of natural resources to the natural resources commission the authority to fix by regulation the open hunting, trapping and fishing seasons and the bag, creel, size, age, weight and sex limits of wildlife which may be taken in this state.

Be it enacted by the Legislature of West Virginia:

That sections seven and seventeen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

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

1 In addition to all other powers, duties and responsibilities granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:

5 (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;

12 (2) Sign and execute in the name of the state by the "department 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;

17 (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 such 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 of 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 twenty-four 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 department;

(9) Designate such localities as he 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 “department of natural resources” by purchase, condemnation, lease or agreement, or accept or reject for the state, in the name of the department 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 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, esthetic, 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 and regulations 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 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, with the approval in writing of the governor, 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. 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. When the appraised value of the timber to be sold is more than five hundred dollars, the director, before making sale thereof, shall receive sealed bids therefor, after notice by publication as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the
publication area for such 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 shall have the right to reject any and all bids and to 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 deems appropriate, but the sale price shall not be less than the appraised value of the timber advertised. No contract for sale of timber made pursuant to this section shall extend for a period of more than ten years. And all contracts heretofore entered into by the state for the sale of timber shall not be validated by this section if the same be 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 department and used exclusively for the purposes of this chapter;

(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 article three, chapter fifty-nine 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 shall have the right to reject any and all bids and to readvertise the 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 department and used exclu-
sively 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 conserva-
tion of natural resources and the beautification of the
state;
(17) Report to the governor each year all informa-
tion relative to the operation and functions of his de-
partment and he 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 department of each fiscal year,
and he shall deliver such report to the governor on or
before the first day of December next after the end of
the fiscal year so covered. A copy of such report shall
be delivered to each house of the Legislature when con-
vened in January next following;
(18) Keep a complete and accurate record of all pro-
ceedings, record and file all bonds and contracts taken
or entered into, and assume responsibility for the cus-
tody and preservation of all papers and documents per-
taining to his office, except as otherwise provided by
law;
(19) Offer and pay, in his discretion, rewards for
information respecting the violation, or for the appre-
hension and conviction of any violators, of any of the
provisions of this chapter;
(20) Require such reports as he may deem to be
necessary from any person issued a license or permit
under the provisions of this chapter, but no person shall
be required to disclose secret processes or confidential
data of competitive significance;
(21) Purchase as provided by law all equipment nec-
essary for the conduct of his department;
(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 such research;

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

(24) Accept and expend, without the necessity of appropriation by the Legislature, any gift or grant of money made to the department for any and all purposes specified in this chapter, and he 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 such monuments or parks as he deems advisable;

(26) Maintain in his office at all times, properly indexed by subject matter, and also, in chronological sequence, all rules and regulations made or issued under the authority of this chapter. Such 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 office, except the power to execute contracts, to appointees and employees of the department, who shall act under the direction and supervision of the director and for whose acts he shall be responsible;

(28) Conduct schools, institutes 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 department in moving his 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 shall be paid more frequently than once in twelve months; and
(30) Promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code, to implement and make effective the powers and duties vested in him by the provisions of this chapter and take such other steps as may be necessary in his discretion for the proper and effective enforcement of the provisions of this chapter: Provided, however, That all rules and regulations relating to articles five and five-a of this chapter shall be promulgated by the water resources board.

§20-1-17. Natural resources commission—Organization and services.

1 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 actual and necessary traveling expenses incurred in the performance of his official duties.

10 The director of the department 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 commencing on the first Monday in the months of July, October, January and April. 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 the office of the director, but may be held at other points within the state when need therefor exists as explained in the call setting forth the time and place of the meeting. 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 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 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;

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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Florenc[e] C. [Cher]relum [s]  
Chairman House Committee

Originated in the Senate.

In effect July 1, 1975.

J. Willing  
Clerk of the Senate

W[. T.] Blankenship  
Clerk of the House of Delegates

W[. T.] B[r]athler  
President of the Senate

Sam [W.] Massa  
Speaker House of Delegates

The within _____________________________ this the 25th day of ____________________________, 1975.

[Signature]

Governor
PRESENTED TO THE
GOVERNOR

Date 2/19/75
Time 2:55 p.m.