

S
HB 4116

FILED

2006 MAR 30 A 10: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4116

(By Delegates Hamilton, Beach, Stevens,
Evans, Ellem, Poling, Talbott and Schadler)



Passed March 10, 2006

In Effect Ninety Days from Passage

FILED

2006 MAR 30 A 10: 02

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4116

(BY DELEGATES HAMILTON, BEACH, STEVENS,
EVANS, ELLEM, POLING, TALBOTT AND SCHADLER)

[Passed March 10, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §20-1-7 of the Code of West Virginia, 1931, as amended, relating to increasing the amount of timber that can be sold on state Wildlife Management Areas, without sealed bids, from five hundred dollars to five thousand dollars.

Be it enacted by the Legislature of West Virginia:

That §20-1-7 of the Code of West Virginia, 1931, 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
2 granted and assigned to the director in this chapter and else-
3 where by law, the director is hereby authorized and empowered
4 to:

5 (1) With the advice of the commission, prepare and
6 administer, through the various divisions created by this
7 chapter, a long-range comprehensive program for the conserva-
8 tion of the natural resources of the state which best effectuates
9 the purpose of this chapter and which makes adequate provi-
10 sions for the natural resources laws of the state;

11 (2) Sign and execute in the name of the state by the
12 "Division of Natural Resources" any contract or agreement with
13 the federal government or its departments or agencies, subdivi-
14 sions of the state, corporations, associations, partnerships or
15 individuals;

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

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

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

26 (6) Hold at least six meetings each year at such time and at
27 such points within the state, as in the discretion of the natural
28 resources commission may appear to be necessary and proper
29 for the purpose of giving interested persons in the various
30 sections of the state an opportunity to be heard concerning open
31 season for their respective areas, and report the results of the
32 meetings to the natural resources commission before such
33 season and bag limits are fixed by it;

34 (7) Suspend open hunting season upon any or all wildlife in
35 any or all counties of the state with the prior approval of the

36 Governor in case of an emergency such as a drought, forest fire
37 hazard or epizootic disease among wildlife. The suspension
38 shall continue during the existence of the emergency and until
39 rescinded by the director. Suspension, or reopening after such
40 suspension, of open seasons may be made upon twenty-four
41 hours' notice by delivery of a copy of the order of suspension
42 or reopening to the wire press agencies at the State Capitol;

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

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

48 (10) Enter private lands to make surveys or inspections for
49 conservation purposes, to investigate for violations of provi-
50 sions of this chapter, to serve and execute warrants and pro-
51 cesses, to make arrests and to otherwise effectively enforce the
52 provisions of this chapter;

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

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

64 (b) For state parks or recreation areas for the purpose of
65 preserving scenic, aesthetic, scientific, cultural, archaeological

66 or historical values or natural wonders, or providing public
67 recreation;

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

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

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

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

79 (12) Capture, propagate, transport, sell or exchange any
80 species of wildlife as may be necessary to carry out the provi-
81 sions of this chapter;

82 (13) Sell timber for not less than the value thereof, as
83 appraised by a qualified appraiser appointed by the director,
84 from all lands under the jurisdiction and control of the director,
85 except those lands that are designated as state parks and those
86 in the Kanawha State Forest. The appraisal shall be made within
87 a reasonable time prior to any sale, reduced to writing, filed in
88 the office of the director and shall be available for public
89 inspection. The director must obtain the written permission of
90 the Governor to sell timber when the appraised value is more
91 than five thousand dollars. The director shall receive sealed bids
92 therefor, after notice by publication as a Class II legal advertise-
93 ment in compliance with the provisions of article three, chapter
94 fifty-nine of this code, and the publication area for such
95 publication shall be each county in which the timber is located.
96 The timber so advertised shall be sold at not less than the

97 appraised value to the highest responsible bidder, who shall
98 give bond for the proper performance of the sales contract as
99 the director shall designate; but the director shall have the right
100 to reject any and all bids and to readvertise for bids. If the
101 foregoing provisions of this section have been complied with,
102 and no bid equal to or in excess of the appraised value of the
103 timber is received, the director may, at any time, during a
104 period of six months after the opening of the bids, sell the
105 timber in such manner as he or she deems appropriate, but the
106 sale price shall not be less than the appraised value of the
107 timber advertised. No contract for sale of timber made pursuant
108 to this section shall extend for a period of more than ten years.
109 And all contracts heretofore entered into by the state for the sale
110 of timber shall not be validated by this section if the same be
111 otherwise invalid. The proceeds arising from the sale of the
112 timber so sold, shall be paid to the Treasurer of the State of
113 West Virginia, and shall be credited to the division and used
114 exclusively for the purposes of this chapter: *Provided*, That
115 nothing contained herein shall prohibit the sale of timber which
116 otherwise would be removed from rights-of-way necessary for
117 and strictly incidental to the extraction of minerals;

118 (14) Sell or lease, with the approval in writing of the
119 Governor, coal, oil, gas, sand, gravel and any other minerals
120 that may be found in the lands under the jurisdiction and control
121 of the director, except those lands that are designated as state
122 parks. The director, before making sale or lease thereof, shall
123 receive sealed bids therefor, after notice by publication as a
124 Class II legal advertisement in compliance with the provisions
125 of article three, chapter fifty-nine of this code, and the publica-
126 tion area for such publication shall be each county in which
127 such lands are located. The minerals so advertised shall be sold
128 or leased to the highest responsible bidder, who shall give bond
129 for the proper performance of the sales contract or lease as the
130 director shall designate; but the director shall have the right to
131 reject any and all bids and to readvertise for bids. The proceeds

132 arising from any such sale or lease shall be paid to the Treasurer
133 of the State of West Virginia and shall be credited to the
134 division and used exclusively for the purposes of this chapter;

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

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

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

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

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

161 (20) Require such reports as he or she may deem to be
162 necessary from any person issued a license or permit under the

163 provisions of this chapter, but no person shall be required to
164 disclose secret processes or confidential data of competitive
165 significance;

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

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

171 (23) Encourage and cooperate with other public and private
172 organizations or groups in their efforts to publicize the attrac-
173 tions of the state;

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

179 (25) Cooperate with the state historian and other appropri-
180 ate state agencies in conducting research with reference to the
181 establishment of state parks and monuments of historic, scenic
182 and recreational value, and to take such steps as may be
183 necessary in establishing such monuments or parks as he or she
184 deems advisable;

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

190 (27) Delegate the powers and duties of his or her office,
191 except the power to execute contracts, to appointees and
192 employees of the division, who shall act under the direction and

193 supervision of the director and for whose acts he or she shall be
194 responsible;

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

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

205 (30) Promulgate rules, in accordance with the provisions of
206 chapter twenty-nine-a of this code, to implement and make
207 effective the powers and duties vested in him or her by the
208 provisions of this chapter and take such other steps as may be
209 necessary in his or her discretion for the proper and effective
210 enforcement of the provisions of this chapter.

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



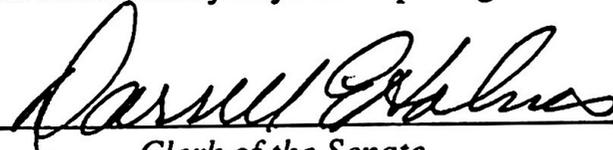
Chairman Senate Committee



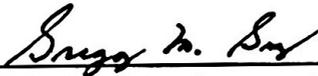
Chairman House Committee

Originating in the House.

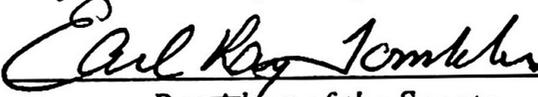
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

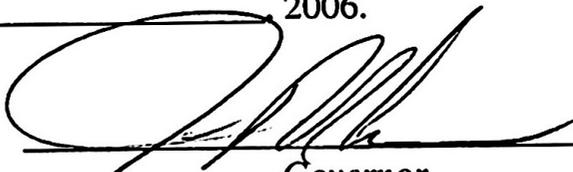


President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March 2006.



Governor

PRESENTED TO THE
GOVERNOR

MAR 22 2006

Time 3:45pm