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
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 granted and assigned to the director in this chapter and elsewhere by law, the director is hereby authorized and empowered to:
(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;

(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 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 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 provi-
sions of this chapter;

(13) Sell timber for not less than the value thereof, as
appraised by a qualified appraiser appointed by the director,
from all lands under the jurisdiction and control of the director,
except those lands that are designated as state parks and those
in the Kanawha State Forest. The appraisal shall be made within
a reasonable time prior to any sale, reduced to writing, filed in
the office of the director and shall be available for public
inspection. The director must obtain the written permission of
the Governor to sell timber when the appraised value is more
than five thousand dollars. The director shall receive sealed bids
therefor, after notice by publication as a Class II legal advertise-
ment 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 or she 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 division and used
exclusively for the purposes of this chapter: Provided, That
nothing contained herein shall 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 article three, chapter fifty-nine of this code, and the publica-
tion 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 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 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
convened in January next following;

(18) Keep a complete and accurate record of all proceed-
ings, 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 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 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 such research;

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

(24) Accept and expend, without the necessity of appropria-
tion by the Legislature, any gift or grant of money made to the
division for any and 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 appropri-
ate 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 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.
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 or her office,
except the power to execute contracts, 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 shall be paid more frequently than once in twelve months; and

(30) Promulgate rules, 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 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.
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