

H. B. 2804

(By Delegates Morgan, Swartzmiller, Hartman,
Givens, Manypenny and Staggers)

[Introduced January 24, 2011; referred to the
Committee on Government Organization then the Judiciary.]

A BILL to repeal §16-1-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-6-1 of said code; to amend and reenact §5A-1-11 of said code; to amend and reenact §5B-1-1a of said code; to amend and reenact §9-2-1a of said code; to amend and reenact §17B-2-7a of said code; to amend and reenact §17C-15-44 of said code; to amend and reenact §18-10A-2 of said code; to amend and reenact §19-1-3a of said code; to amend and reenact §19-12A-3 of said code; to amend and reenact §22C-12-6 of said code; to amend and reenact §24-1-3 of said code; to amend and reenact §24A-1A-2 of said code; to amend and reenact §24E-1-11 of said code; to amend and reenact §30-30-3 of said code; and to amend and reenact §47A-1-1 of said code, all relating to repealing obsolete code provisions.

Be it enacted by the Legislature of West Virginia:

That §16-1-16 of the Code of West Virginia, 1931, as amended,

1 be repealed; that §5-6-1 of said code be amended and reenacted;
 2 that §5A-1-11 of said code be amended and reenacted; that §5B-1-1a
 3 of said code be amended and reenacted; that §9-2-1a of said code be
 4 amended and reenacted; that §16-1-16 of said code be amended and
 5 reenacted; that §17B-2-7a of said code be amended and reenacted;
 6 that §17C-15-44 of said code be amended and reenacted; that §18-
 7 10A-2 of said code be amended and reenacted; that §19-1-3a of said
 8 code be amended and reenacted; that §19-12A-3 of said code be
 9 amended and reenacted; that §22C-12-6 of said code be amended and
 10 reenacted; that §24-1-3 of said code be amended and reenacted; that
 11 §24A-1A-2 of said code be amended and reenacted; that §24E-1-11 of
 12 said code be amended and reenacted; that §30-30-3 of said code be
 13 amended and reenacted; and that §47A-1-1 of said code be amended
 14 and reenacted, all to read as follows:

15 **CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR,**

16 **SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;**

17 **MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

18 **ARTICLE 6. STATE BUILDINGS.**

19 **§5-6-1. Name of State Office Building Commission changed;**

20 **composition; appointment, terms and qualifications of**

21 **members; chairman and secretary; compensation and**

22 **expenses; powers and duties generally; frequency of**

23 **meetings; continuation.**

1 (a) "The State Office Building Commission of West Virginia,
2 hereto created, shall continue in existence, but on and after
3 February 9, 1966, shall be known and designated as "The State
4 Building Commission of West Virginia" and shall continue as a body
5 corporate and as an agency of the State of West Virginia.

6 (b) On and after the date aforesaid, the commission shall
7 consist of the Governor, Attorney General, State Treasurer and four
8 additional members to be appointed by the Governor by and with the
9 advice and consent of the Senate.

10 (c) The terms of office for said members to be appointed by
11 the Governor shall be four years, except that the terms of office
12 of the first four members so appointed by the Governor shall be for
13 one, two, three and four years, respectively.

14 (d) No more than three of such members so appointed by the
15 Governor shall be members of the same political party, nor shall
16 any of said members be members or employees of the executive,
17 legislative or judicial branches of government of West Virginia or
18 any political subdivision thereof. The Governor shall be chairman
19 of the commission. The Secretary of State shall be a member of the
20 commission and serve as its secretary, but shall not have the right
21 to vote upon matters before the commission. All members of the
22 commission shall be citizens and residents of this state.

23 (e) The members of the commission shall be paid or reimbursed
24 for their necessary expenses incurred under this article, but shall

1 receive no compensation for their services as members or officers
2 of the commission: *Provided*, That each member of the commission
3 appointed by the Governor shall, in addition to such reimbursement
4 for necessary expenses, receive an amount not to exceed the same
5 compensation as is paid to members of the Legislature for their
6 interim duties as recommended by the Citizens Legislative
7 Compensation Commission and authorized by law for each day or
8 substantial portion thereof that he or she is engaged in the work
9 of the commission. Such expenses and per diem shall be paid solely
10 from funds provided under the authority of this article, and the
11 commission shall not proceed to exercise or carry out any authority
12 or power herein given it to bind said commission beyond the extent
13 to which money has been provided under the authority of this
14 article.

15 (f) On or before the fifteenth day of each month, the
16 commission shall prepare and transmit to the President and Minority
17 Leader of the Senate and the Speaker and the Minority Leader of the
18 House of Delegates a report covering the activities of the said
19 commission for the preceding calendar month.

20 ~~Pursuant to the provisions of article ten, chapter four of~~
21 ~~this code, the state building commission shall continue to exist~~
22 ~~until the first day of July, two thousand.~~

23 **CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

24 **ARTICLE 1. DEPARTMENT OF ADMINISTRATION.**

1 **§5A-1-11. State Americans with disabilities coordinator.**

2 (a) There is ~~hereby created~~ continued within the Department of
3 Administration the position of the state Americans with
4 Disabilities Coordinator, who shall be appointed by the Secretary
5 of the Department of Administration with input from the chairperson
6 from each of the following four councils:

7 (1) The Developmental Disabilities Council;

8 (2) The Statewide Independent Living Council;

9 (3) The Mental Health Planning Council; and

10 (4) The State Rehabilitation Council.

11 (b) The coordinator shall be a full-time employee, and shall
12 have an in-depth working knowledge of the challenges facing persons
13 with disabilities. The coordinator may be a current employee of
14 the Department of Administration or other state agency employee.

15 (c) The coordinator shall:

16 (1) Advise the Director of Personnel in the development of
17 comprehensive policies and programs for the development,
18 implementation and monitoring of a statewide program to assure
19 compliance with 42 U.S.C. §12101, *et seq.*, the federal Americans
20 with Disabilities Act;

21 (2) Assist in the formulation of rules and standards relating
22 to the review, investigation and resolution of complaints of
23 discrimination in employment, education, housing and public
24 accommodation;

1 (3) Consult and collaborate with state and federal agency
2 officials in the state plan development;

3 (4) Consult and collaborate with agency Americans with
4 disabilities officers on the appropriate training for managers and
5 supervisors on regulations and issues;

6 (5) Represent the state on local, state and national
7 committees and panels related to Americans with disabilities;

8 (6) Advise the Governor and agency heads on Americans with
9 disabilities issues;

10 (7) Consult with state equal employment opportunity officers
11 on the hiring of persons with disabilities; and

12 (8) Be available to inspect and advise the leasing section of
13 the Division of Purchasing on all physical properties owned or
14 leased by the State of West Virginia for compliance with 42 U.S.C.
15 §12101, *et seq.*, the federal Americans with Disabilities Act.

16 (d) (1) The Secretary of the Department of Administration may
17 assess, charge and collect fees from each state spending unit which
18 utilizes the services of the coordinator, for the direct costs and
19 expenses incurred by the coordinator in providing those services.
20 Costs and expenses include travel, materials, equipment and
21 supplies. Moneys shall be collected through the Division of
22 Finance.

23 (2) A state spending unit shall agree in writing to all costs
24 and expenses before the services by the Americans with disabilities

1 coordinator are rendered.

2 (e) There is ~~hereby created~~ continued in the Department of
3 Administration a special fund to be named the "Americans with
4 Disabilities Coordinator Fund", which shall be an interest-bearing
5 account and may be invested in accordance with the provisions of
6 article six, chapter twelve of this code, with the interest income
7 a proper credit to the fund. Funds paid into the account may be
8 derived from the following sources:

9 (1) All moneys received from state spending units for the
10 costs and expenses incurred by the state Americans with
11 disabilities coordinator for providing services related to the
12 state's implementation and compliance with 42 U.S.C. §12101, *et*
13 *seq.*, the federal Americans with Disabilities Act;

14 (2) Any gifts, grants, bequests, transfers or donations which
15 may be received from any governmental entity or unit or any person,
16 firm, foundation or corporation; and

17 (3) All interest or return on investment accruing to the fund.

18 (f) Moneys in the fund are to be used for the costs and
19 expenses incurred pursuant to this section. Any balance including
20 accrued interest in this special fund at the end of any fiscal year
21 shall not revert to the General Revenue Fund, but shall remain in
22 the fund for use by the Secretary of the Department of
23 Administration for providing additional Americans with disabilities
24 coordinator services within the State of West Virginia in the

1 ensuing fiscal years.

2 (g) The Secretary of the Department of Administration shall
3 report annually on the fund to the Governor, President of the
4 Senate and Speaker of the House of Delegates. The report must be
5 on CD ROM or other electronic media and shall not be in print
6 format.

7 ~~(h) The state Americans with disabilities coordinator shall~~
8 ~~continue to exist until the first day of July, two thousand nine,~~
9 ~~unless sooner terminated, continued or reestablished pursuant to~~
10 ~~the provisions of article ten, chapter four of this code.~~

11 **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

12 **ARTICLE 1. DEPARTMENT OF COMMERCE.**

13 **§5B-1-1a. Marketing and Communications Office.**

14 (a) There is ~~hereby created~~ continued in the Department of
15 Commerce the Marketing and Communications Office. The office is
16 created to provide marketing and communications goods and services
17 to other state agencies, departments, units of state or local
18 government or other entity or person.

19 (b) The office is authorized to charge for goods and services
20 it provides to other state agencies. The Secretary of the
21 Department of Commerce shall approve a fee schedule determining the
22 amounts that may be charged for goods and services provided by the
23 office to other state agencies.

24 (c) All moneys collected shall be deposited in a special

1 account in the State Treasury to be known as the Department of
2 Commerce Marketing and Communications Operating Fund. Expenditures
3 from the fund shall be for the operation of the office and are not
4 authorized from collections but are to be made only in accordance
5 with appropriation by the Legislature and in accordance with the
6 provisions of article two, chapter eleven-b of this code.

7 ~~Provided, That for the fiscal year ending June 30, 2008,~~
8 ~~expenditures are authorized from collections and shall be expended~~
9 ~~at the discretion of the Secretary of the Department of Commerce~~
10 ~~rather than pursuant to appropriation by the Legislature.~~

11 (d) Any balance remaining at the end of any fiscal year shall
12 not revert to the General Revenue Fund, but shall remain in the
13 fund for expenditures in accordance with the purposes set forth in
14 this section.

15 (e) The Department of Commerce shall develop and maintain a
16 system of annual or more frequent performance measures useful in
17 gauging the efficiency and effectiveness of the office's marketing
18 and communications activities. The measures shall also reflect the
19 office's efficiency and effectiveness with respect to commercially
20 available marketing and communications services and any private
21 sector benchmarks which might be identified or created. For the
22 purposes of this section, "performance measures" means income,
23 output, quality, self-sufficiency and outcome metrics.

24 (f) ~~Beginning on January 1, 2008, and annually every year~~

1 ~~thereafter~~ On January 1 of each year, the Secretary of the
 2 Department of Commerce shall report to the Joint Committee on
 3 Government and Finance, the Joint Standing Committee on Finance and
 4 the Joint Commission on Economic Development on the performance of
 5 the office. This report is to include a statement of the
 6 performance measurements for the office developed by the Secretary
 7 of the Department of Commerce and an analysis of the office's
 8 performance.

9 ~~(g) Pursuant to the provisions of article ten, chapter four of~~
 10 ~~this code, the Marketing and Communications Office shall continue~~
 11 ~~to exist until the first day of July, two thousand ten, unless~~
 12 ~~sooner terminated, continued or reestablished.~~

13 **CHAPTER 9. HUMAN SERVICES.**

14 **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND**
 15 **RESPONSIBILITIES GENERALLY.**

16 **§9-2-1a. Department of Health and Human Resources.**

17 The Department of Health and Human Resources shall be charged
 18 with the administration of this chapter. ~~Pursuant to the~~
 19 ~~provisions of article ten, chapter four of this code, the~~
 20 ~~Department of Health and Human Resources shall continue to exist~~
 21 ~~until the first day of July, two thousand six, unless sooner~~
 22 ~~terminated, continued or reestablished.~~

23 **CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

1 **ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.**

2 **§17B-2-7a. Driver's Licensing Advisory Board.**

3 (a) The Driver's Licensing Advisory Board is ~~hereby~~ continued.

4 The board shall consist of five members to be appointed by the
5 Governor, by and with the advice and consent of the Senate, for
6 terms of three years, except that as to the members first
7 appointed, two shall be appointed for a term of three years, two
8 shall be appointed for a term of two years and one shall be
9 appointed for a term of one year, all from July 1, 1974. All
10 vacancies occurring on the board shall be filled by the Governor,
11 by and with the advice and consent of the Senate. One member of
12 the board shall be an optometrist duly registered to practice
13 optometry in this state and the other four members of the board
14 shall be physicians or surgeons duly licensed to practice medicine
15 or surgery in this state. The Governor shall appoint persons
16 qualified to serve on the board who, in his opinion, will best
17 serve the work and function of the board.

18 (b) The board shall advise the Commissioner of Motor Vehicles
19 as to vision standards and all other medical criteria of whatever
20 kind or nature relevant to the licensing of persons to operate
21 motor vehicles under the provisions of this chapter. The board
22 shall, upon request, advise the Commissioner of Motor Vehicles as
23 to the mental or physical fitness of an applicant for, or the
24 holder of, a license to operate a motor vehicle. The board shall

1 furnish the commissioner with all such medical standards,
2 statistics, data, professional information and advice as he may
3 reasonably request.

4 (c) The members of the board shall receive compensation and
5 expense reimbursement in an amount not to exceed the same
6 compensation and expense reimbursement as is paid to members of the
7 Legislature for their interim duties as recommended by the Citizens
8 Legislative Compensation Commission and authorized by law, for each
9 day or substantial portion thereof engaged in the performance of
10 official duties.

11 ~~Pursuant to the provisions of article ten, chapter four of~~
12 ~~this code, the driver's licensing advisory board shall continue to~~
13 ~~exist until the first day of July, two thousand nine.~~

14 **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

15 **ARTICLE 15. EQUIPMENT.**

16 **§17C-15-44. Safety equipment and requirements for motorcyclists,**
17 **motorcycles, motor-driven cycles and mopeds;**
18 **Motorcycle Safety Standards and Education**
19 **Committee.**

20 (a) No person shall operate or be a passenger on any
21 motorcycle or motor-driven cycle unless the person is wearing
22 securely fastened on his or her head by either a neck or chin strap
23 a protective helmet designed to deflect blows, resist penetration

1 and spread impact forces. Any helmet worn by an operator or
2 passenger shall meet the current performance specifications
3 established by the American National Standards Institute Standard,
4 Z 90.1, the United States Department of Transportation Federal
5 Motor Vehicle Safety Standard No. 218 or Snell Safety Standards for
6 Protective Headgear for Vehicle Users.

7 (b) No person shall operate or be a passenger on any
8 motorcycle or motor-driven cycle unless the person is wearing
9 safety, shatter-resistant eyeglasses (excluding contact lenses), or
10 eyegoggles or face shield that complies with the performance
11 specifications established by the American National Standards
12 Institute for Head, Eye and Respiratory Protection, Z 2.1. In
13 addition, if any motorcycle, motor-driven cycle or moped is
14 equipped with a windshield or windscreen, the windshield or
15 windscreen shall be constructed of safety, shatter-resistant
16 material that complies with the performance specifications
17 established by the Department of Transportation Federal Motor
18 Vehicle Safety Standard No. 205 and American National Standards
19 Institute, Safety Glazing Materials for Glazing Motor Vehicles
20 Operated on Land Highways, Standard Z 26.1.

21 (c) No person shall operate a motorcycle, motor-driven cycle
22 or moped on which the handlebars or grips are more than fifteen
23 inches higher than the uppermost part of the operator's seat when
24 the seat is not depressed in any manner.

1 (d) A person operating a motorcycle, motor-driven cycle or
2 moped shall ride in a seated position facing forward and only upon
3 a permanent operator's seat attached to the vehicle. No operator
4 shall carry any other person nor shall any other person ride on the
5 vehicle unless the vehicle is designed to carry more than one
6 person, in which event a passenger may ride behind the operator
7 upon the permanent operator's seat if it is designed for two
8 persons, or upon another seat firmly attached to the vehicle to the
9 rear of the operator's seat and equipped with footrests designed
10 and located for use by the passenger or in a sidecar firmly
11 attached to the vehicle. No person shall ride side saddle on a
12 seat. An operator may carry as many passengers as there are seats
13 and footrests to accommodate those passengers. Additional
14 passengers may be carried in a factory produced sidecar provided
15 that there is one passenger per seat. Passengers riding in a
16 sidecar shall be restrained by safety belts.

17 (e) Every motorcycle, motor-driven cycle and moped shall be
18 equipped with a rearview mirror affixed to the handlebars or
19 fairings and adjusted so that the operator shall have a clear view
20 of the road and condition of traffic behind him or her for a
21 distance of at least two hundred feet.

22 (f) There is ~~hereby created~~ continued a six member Motorcycle
23 Safety and Education Committee consisting of: The Superintendent
24 of the State Police or a designee; the Commissioner of Motor

1 Vehicles or a designee; the Director of the West Virginia Safety
2 Council or a designee; a licensed motorcycle operator; an owner of
3 a motorcycle dealership; and a supplier of aftermarket
4 nonfranchised motorcycle supplies. The nongovernmental
5 representatives shall be appointed by the Governor with the advice
6 and consent of the Senate, shall serve without compensation, and
7 the terms shall be for three years, except that as to the members
8 first appointed, one shall be appointed for a term of one year, one
9 shall be appointed for a term of two years and one shall be
10 appointed for a term of three years. Members may be reappointed to
11 the committee.

12 ~~The committee shall continue to exist pursuant to the~~
13 ~~provisions of article ten, chapter four of this code until the~~
14 ~~first day of July, one thousand nine hundred ninety-nine, to allow~~
15 ~~for the completion of a preliminary performance review by the joint~~
16 ~~committee on government operations.~~

17 The committee is hereby authorized to recommend to the
18 Superintendent of Public Safety types and makes of protective
19 helmets, eye protection devices and equipment offered for sale,
20 purchased or used by any person. The committee is authorized to
21 make recommendations to the Commissioner of Motor Vehicles
22 regarding the use of the moneys in the Motorcycle Safety Fund
23 created under section seven, article one-d, chapter seventeen-b of
24 this code.

1 **CHAPTER 18. EDUCATION.**

2 **ARTICLE 10A. REHABILITATION SERVICES.**

3 **§18-10A-2. Division of rehabilitation services.**

4 (a) The Division of Rehabilitation Services is hereby
5 transferred to the Department of Education and the Arts created in
6 article one, chapter five-f of this code. The secretary shall
7 appoint any such board, commission or council over the division to
8 the extent required by federal law to qualify for federal funds for
9 providing rehabilitation services for disabled persons. The
10 secretary and such boards, commissions or councils as he or she is
11 required by federal law to appoint are authorized and directed to
12 cooperate with the federal government to the fullest extent in an
13 effort to provide rehabilitation services for disabled persons.

14 (b) References in this article or article ten-b of this
15 chapter to the state Board of Vocational Education, the state Board
16 of Rehabilitation or the state board as the governing board of
17 vocational or other rehabilitation services or facilities means the
18 Secretary of Education and the Arts. All references in the code to
19 the Division of Vocational Rehabilitation means the Division of
20 Rehabilitation Services and all references to the Director of the
21 Division of Vocational Rehabilitation means the Director of the
22 Division of Rehabilitation Services.

23 ~~Pursuant to the provisions of article ten, chapter four of~~
24 ~~this code, the Division of Rehabilitation Services shall continue~~

1 ~~to exist until the first day of July, two thousand four.~~

2 **CHAPTER 19. AGRICULTURE.**

3 **ARTICLE 1. DEPARTMENT OF AGRICULTURE.**

4 **§19-1-3a. Marketing and Development Division; duties.**

5 ~~In recognition that article ten, chapter four of this code~~
 6 ~~requires a preliminary performance review of the rural resource~~
 7 ~~division of the Department of Agriculture and that performance~~
 8 ~~standards must be stated before such audit can be performed, the~~
 9 ~~rural resources division is hereby formally established and renamed~~
 10 ~~the marketing and development division in the Department of~~
 11 ~~Agriculture.~~ The duties of the Marketing and Development Division
 12 are to establish marketing, promotional and development programs to
 13 advance West Virginia agriculture in the domestic and international
 14 markets; to provide grading, inspection and market news services to
 15 the various elements of the West Virginia agricultural industry;
 16 and to regulate and license individuals involved in the marketing
 17 of agricultural products.

18 **ARTICLE 12A. LAND DIVISION.**

19 **§19-12A-3. Farm Management Commission continued; composition;**
 20 **chairman; quorum; meetings; vacancies.**

21 (a) The Farm Management Commission heretofore created is
 22 ~~hereby~~ continued and shall be composed of three members who are the
 23 Commissioner of Agriculture, who shall be chairman, the Secretary

1 of the Department of Administration and the Dean of the West
2 Virginia University College of Agriculture and Forestry. No
3 business may be transacted by the commission in the absence of a
4 quorum which consists of two members including the chairman. The
5 farm management commission shall hold meetings at least once every
6 two months and on call of the chairman.

7 (b) If a vacancy occurs on the commission, the Farm Management
8 Director, as provided in this article, shall act as a member of the
9 commission until the vacancy is filled.

10 (c) If a vacancy occurs in the office of the Commissioner of
11 Agriculture, the members of the commission and the Farm Management
12 Director shall select, from among them, a chairman to serve until
13 a Commissioner of Agriculture is appointed or elected and
14 qualified.

15 ~~Pursuant to the provisions of section four, article ten,~~
16 ~~chapter four of this code, the farm management commission shall~~
17 ~~continue to exist until the first day of July, one thousand nine~~
18 ~~hundred ninety four, to allow for the completion of an audit by the~~
19 ~~joint committee on government operations.~~

20 **CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES,**
21 **COMMISSIONS AND COMPACTS.**

22 **ARTICLE 12. OHIO RIVER VALLEY WATER SANITATION COMMISSION.**

23 **§22C-12-6. When article effective; findings; continuation.**

1 This article shall take effect and become operative and the
2 compact be executed for and on behalf of this state only from and
3 after the approval, ratification, ~~and~~ adoption and entering into
4 thereof by the states of New York, Pennsylvania, Ohio and Virginia.

5 ~~After having conducted a preliminary performance review~~
6 ~~through its joint committee on government operations, pursuant to~~
7 ~~article ten, chapter four of this code, the Legislature hereby~~
8 ~~finds and declares that West Virginia should remain a member of the~~
9 ~~compact. Accordingly, notwithstanding the provisions of article~~
10 ~~ten, chapter four of this code, West Virginia shall continue to be~~
11 ~~a member of this compact until the first day of July, two thousand~~
12 ~~six, unless sooner terminated, continued or reestablished by act of~~
13 ~~the Legislature.~~

14 **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

15 **ARTICLE 1. GENERAL PROVISIONS.**

16 **§24-1-3. Commission continued; membership; chairman; compensation.**

17 (a) The Public Service Commission of West Virginia is
18 continued and directed as provided by this chapter, chapter twenty-
19 four-a, chapter twenty-four-b and chapter twenty-four-d of this
20 code. ~~After having conducted a performance audit through its joint~~
21 ~~committee on government operations, pursuant to section nine,~~
22 ~~article ten, chapter four of this code, the Legislature hereby~~
23 ~~finds and declares that the Public Service Commission should be~~
24 ~~continued and reestablished. Accordingly, notwithstanding the~~

1 ~~provisions of section five, article ten, chapter four of this code,~~
2 ~~the Public Service Commission shall continue to exist until the~~
3 ~~first day of July, two thousand three.~~ The Public Service
4 Commission may sue and be sued by that name. The Public Service
5 Commission shall consist of three members who shall be appointed by
6 the Governor, with the advice and consent of the Senate. The
7 commissioners shall be citizens and residents of this state and at
8 least one of them shall be duly licensed to practice law in West
9 Virginia, with not less than ten years' actual work experience in
10 the legal profession as a member of a state bar. No more than two
11 of the commissioners shall be members of the same political party.
12 Each commissioner shall, before entering upon the duties of his or
13 her office, take and subscribe to the oath provided by section
14 five, article IV of the Constitution of this state. The oath shall
15 be filed in the Office of the Secretary of State. The Governor
16 shall designate one of the commissioners to serve as chairman at
17 the Governor's will and pleasure. The chairman shall be the chief
18 administrative officer of the commission. The Governor may remove
19 any commissioner only for incompetency, neglect of duty, gross
20 immorality, malfeasance in office or violation of subsection (c) of
21 this section.

22 (b) The unexpired terms of members of the Public Service
23 Commission at the time this subsection becomes effective are
24 continued. Upon expiration of the terms, appointments are for

1 terms of six years, except that an appointment to fill a vacancy is
2 for the unexpired term only. The commissioners whose terms are
3 terminated by the provisions of this subsection are eligible for
4 reappointment.

5 (c) No person while in the employ of, or holding any official
6 relation to, any public utility subject to the provisions of this
7 chapter or holding any stocks or bonds of a public utility subject
8 to the provisions of this chapter or who is pecuniarily interested
9 in a public utility subject to the provisions of this chapter may
10 serve as a member of the commission or as an employee of the
11 commission. ~~Nor may any~~ No commissioner may be a candidate for or
12 hold public office or be a member of any political committee while
13 acting as a commissioner~~7,~~ nor may any commissioner or employee of
14 the commission receive any pass, free transportation or other thing
15 of value, either directly or indirectly, from any public utility or
16 motor carrier subject to the provisions of this chapter. ~~In case~~
17 ~~any of the commissioners~~ If a commissioner becomes a candidate for
18 any public office or a member of any political committee, the
19 Governor shall remove him or her from office and shall appoint a
20 new commissioner to fill the vacancy created.

21 (d) The salaries of members of the Public Service Commission
22 and the manner in which they are paid established by the prior
23 enactment of this section are continued. ~~Effective July 1, 2001,~~
24 The annual salary of each commissioner provided in section two-a,

1 article seven, chapter six of this code shall be paid in monthly
2 installments from the special funds in the percentages that follow:

3 (1) From the Public Service Commission Fund collected under
4 the provisions of section six, article three of this chapter,
5 eighty percent;

6 (2) From the Public Service Commission Motor Carrier Fund
7 collected under the provisions of section six, article six, chapter
8 twenty-four-a of this code, seventeen percent; and

9 (3) From the Public Service Commission Gas Pipeline Safety
10 Fund collected under the provisions of section three, article five,
11 chapter twenty-four-b of this code, three percent.

12 (e) In addition to the salary provided for all commissioners
13 in section two-a, article seven, chapter six of this code, the
14 chairman of the commission shall receive \$5,000 per annum to be
15 paid in monthly installments from the Public Service Commission
16 Fund collected under the provisions of section six, article three
17 of this chapter.

18 **CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

19 **ARTICLE 1A. COMMERCIAL VEHICLE REGULATION.**

20 **§24A-1A-2. Creation of advisory committee; purpose; members;**
21 **terms.**

22 (a) There is ~~created~~ continued the Commercial Motor Vehicle
23 Weight and Safety Enforcement Advisory Committee, the purpose of

1 which is to study the implementation of the commercial motor
2 vehicle weight and safety enforcement program set forth in this
3 article.

4 (b) The committee consists of the following members:

5 (1) One member who is an employee of the Division of Highways,
6 to be appointed by the Commissioner of Highways;

7 (2) One member who is an employee of the Public Service
8 Commission, to be appointed by the Chairman of the Public Service
9 Commission;

10 (3) One member who is a State Police officer, to be appointed
11 by the Superintendent of the State Police;

12 (4) One member who is an employee of the Division of Motor
13 Vehicles, to be appointed by the Commissioner of Motor Vehicles;

14 (5) One member who is an employee of the Development Office,
15 to be appointed by the Governor;

16 (6) One member who is representative of the coal industry, to
17 be appointed by the Governor;

18 (7) One member of the Senate, to be appointed by the President
19 of the Senate;

20 (8) One member of the House of Delegates, to be appointed by
21 the Speaker of the House of Delegates;

22 (9) Two citizen members, to be appointed by the Governor;

23 (10) One member of the largest organization representing coal
24 miners, to be appointed by the Governor; and

1 (11) One member of the largest organization representing
2 natural resource transportation drivers, to be appointed by the
3 Governor.

4 (c) Members shall serve for terms of three years. No member
5 may be appointed to serve more than two consecutive terms.

6 (d) The committee shall annually nominate from its members a
7 chair, who shall hold office for one year.

8 (e) The committee shall hold at least four meetings each year
9 or more often as may, in the discretion of the chair, be necessary
10 to effectuate the purposes of this article.

11 (f) The public members of the committee may receive
12 compensation for attendance at official meetings, not to exceed the
13 amount paid to members of the Legislature for their interim duties
14 as recommended by the Citizens Legislative Compensation Commission
15 and authorized by law.

16 (g) Committee members may be reimbursed for actual and
17 necessary expenses incurred for each day or portion of a day
18 engaged in the discharge of committee duties in a manner consistent
19 with guidelines of the Travel Management Office of the Department
20 of Administration.

21 (h) On or before January 1 ~~2004~~, and of each ~~subsequent~~ year
22 ~~thereafter~~ the committee shall submit to the Governor and to the
23 Legislature a report of its recommendations for improving the
24 effectiveness of the commercial vehicle weight and safety

1 enforcement program.

2 ~~(i) The commercial vehicle weight and safety enforcement~~
 3 ~~advisory committee shall continue to exist until the first day of~~
 4 ~~July, two thousand seven, pursuant to the provisions of article~~
 5 ~~ten, chapter four of this code, unless sooner terminated, continued~~
 6 ~~or reestablished pursuant to the provisions of that article.~~

7 **CHAPTER 24E. STATEWIDE ADDRESSING AND MAPPING.**

8 **ARTICLE 1. WEST VIRGINIA STATEWIDE ADDRESSING AND MAPPING BOARD.**

9 **§24E-1-11. Termination of board; transfer of duties and title;**
 10 **legislative and emergency rules; advisory board.**

11 (a) The board shall terminate on July 1, 2009, after which it
 12 shall have one year to wind up its affairs. ~~pursuant to the~~
 13 ~~provisions of article ten, chapter four of this code~~ Upon final
 14 termination, the board shall transfer all its ~~right,~~ rights, title
 15 and interest to any maps, compilations or other works that it
 16 created as a result of the statewide addressing and mapping to the
 17 respective county commissions.

18 (b) Upon final termination of the board, county commissions
 19 shall maintain and update the addressing and mapping systems within
 20 their respective jurisdictions under the standards established by
 21 the board, as updated thereafter by the Division of Homeland
 22 Security and Emergency Management of the Department of Military
 23 Affairs and Public Safety under this section, and shall supply the

1 updated information to the division in the format it establishes
2 through its rule-making authority.

3 (c) Except as provided in subsection (b) of this section, upon
4 final termination of the board, the powers and duties of the board
5 shall be transferred to the Division of Homeland Security and
6 Emergency Management.

7 (d) Prior to the final termination of the board, the division
8 may propose rules for legislative approval in accordance with the
9 provisions of article three, chapter twenty-nine-a of this code
10 which shall become effective only upon the final termination of the
11 board. The rules shall:

12 (1) Maintain and update the standards for statewide addressing
13 and mapping;

14 (2) Establish standard reasonable fees, based on cost, to be
15 charged by county commissions for copies or use of any maps,
16 compilations or other works created as a result of the statewide
17 addressing and mapping, subject to the exemptions provided under
18 section nine of this article;

19 (3) Govern centralization and interoperability of the county
20 systems within the integrated statewide addressing and mapping
21 system; and

22 (4) Ensure the public safety in any manner the division
23 considers advisable.

24 (e) Upon final termination of the board, the division may

1 propose rules for legislative approval in accordance with the
2 provisions of article three, chapter twenty-nine-a of this code for
3 the purposes set forth in this article.

4 (f) Upon final termination of the board, the division may
5 promulgate emergency rules pursuant to the provisions of section
6 fifteen, article three, chapter twenty-nine-a of this code.

7 (g) Rules in effect as of the reenactment of this article
8 during the 2007 regular session will remain in effect until
9 amended, modified, repealed or replaced pursuant to this article.

10 (h) Effective July 1, 2010, the statewide Addressing and
11 Mapping Board shall become an advisory board within the Division of
12 Homeland Security and Emergency Management and will continue to be
13 composed as set forth in this article and the members will serve at
14 the will and pleasure of the Governor.

15 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

16 **ARTICLE 30. SOCIAL WORKERS.**

17 **§30-30-3. Board of Social Work Examiners.**

18 (a) For the purpose of carrying out the provisions of this
19 article, there is ~~hereby created~~ continued a West Virginia Board of
20 Social Work Examiners, consisting of seven members who shall be
21 appointed by the Governor, subject to the following requirements:

22 (1) No person may be excluded from serving on the board by
23 reason of race, sex or national origin;

24 (2) One member shall be an independent clinical social worker,

1 two members shall be certified social workers, one member shall be
2 a graduate social worker and two members shall be social workers.
3 All such members must be licensed under the provisions of this
4 article in accordance with their respective titles. In addition,
5 there shall be one member of the board chosen from the general
6 public: *Provided*, That those members who are appointed by the
7 Governor to serve as the first board after the effective date of
8 this article shall be persons eligible for the licensing required
9 under this article: *Provided, however*, That the member from the
10 general public shall never be required to be eligible for
11 licensing;

12 (3) The members of the first board to serve after the
13 effective date of this article shall be appointed within ninety
14 days thereof;

15 (4) The term of office for each member of the board shall be
16 three years: *Provided*, That one of the members of the first board
17 to serve after the effective date of this article shall serve a
18 term of two years, three of them shall serve a term of three years
19 and the remaining three shall serve a term of four years; and

20 (5) The Governor shall, whenever there is a vacancy on the
21 board due to circumstances other than the expiration of the term of
22 a member, appoint another member with the same qualifications as
23 the member who has vacated to serve the duration of the unexpired
24 term.

1 (b) For the purpose of accepting nominations for the
2 replacement of a member, the Governor shall cause a notice of the
3 vacancy to be published at least thirty days prior to an
4 announcement of the replacement member, as a Class I-0 legal
5 advertisement, in accordance with the provisions of section two,
6 article three, chapter fifty-nine of this code. The publication
7 area shall be statewide.

8 (c) If the Governor fails to make appointment in ninety days
9 after expiration of any term, the board shall make the necessary
10 appointment. Each member shall hold office until the expiration of
11 the term for which such member is appointed and until a successor
12 shall have been duly appointed and qualified.

13 ~~(b)~~ (d) Any members of the board may be removed from office
14 for cause, in accordance with procedures set forth in this code for
15 the removal of public officials from office.

16 ~~(c)~~ (e) The board shall pay each member the same compensation
17 as is paid to members of the Legislature for their interim duties
18 as recommended by the Citizens Legislative Compensation Commission
19 and authorized by law for each day or portion thereof engaged in
20 the discharge of official duties and shall reimburse each member
21 for actual and necessary expenses incurred in the discharge of
22 official duties: *Provided, That ~~such~~ compensation and ~~such~~*
23 *expenses shall not exceed the amount received by the board from*
24 *licensing fees and penalties imposed under subdivision (4),*

1 subsection ~~(e)~~ (g) of this section.

2 ~~(d)~~ (f) The board shall hold an annual election for the
3 purpose of electing a chairman, vice chairman and secretary. The
4 requirements for meetings and management of the board shall be
5 established in regulations promulgated by the board as required by
6 this article.

7 ~~(e)~~ (g) In addition to the duties set forth in other
8 provisions of this article, the board shall:

9 (1) Recommend to the Legislature any proposed modifications to
10 this article;

11 (2) Report to county prosecutors any suspected violations of
12 this article: *Provided*, That no report shall be made until the
13 board has given the suspected violator ninety days written notice
14 of the suspected violation and the violator has, within such
15 ninety-day period, been afforded an opportunity to respond to the
16 board with respect to the allegation;

17 (3) Publish an annual report and a roster listing the names
18 and addresses of all persons who have been licensed in accordance
19 with the provisions of this article as an independent clinical
20 social worker, certified social worker, graduate social worker or
21 social worker;

22 (4) Establish a fee schedule by legislative rule, ~~pursuant to~~
23 proposed for legislative approval in accordance with the provisions
24 of article three, chapter twenty-nine-a of this code, which

1 schedule may include fees for the initial examination, license fee,
2 license renewal, license replacement, reciprocal license, license
3 classification change, continuing education provider approval and
4 monitoring, mailing lists and requests for information and reports:

5 Provided, That fees for requests for information and reports shall
6 not be greater than the cost of personnel, time and supplies
7 incurred by the board and shall not be applied to the annual
8 report;

9 (5) Establish standards and requirements by legislative rule,
10 ~~pursuant to~~ proposed for legislative approval in accordance with
11 the provisions of article three, chapter twenty-nine-a of this
12 code, for continuing education. In establishing these requirements
13 the board shall consult with professional groups and organizations
14 representing all levels of practice provided ~~for~~ in this article
15 and the board shall consider recognized staff development programs,
16 continuing education programs offered by colleges and universities
17 having social work programs approved or accredited by the council
18 on social work education, and continuing education programs offered
19 by recognized state and national social work bodies: *Provided,*
20 That ~~such~~ standards and requirements for continuing education shall
21 not be construed to alter or affect in any way the standards and
22 requirements for licensing as set forth elsewhere in this article;

23 (6) Establish standards and requirements for the practice of
24 social work and the differentiation of qualifications, education,

1 training, experience, supervision, responsibilities, rights, duties
2 and privileges at the independent clinical social worker, certified
3 social worker, graduate social worker and social worker license
4 levels. In establishing these standards and requirements the board
5 shall consult with professional groups and organizations
6 representing all levels of practice provided ~~for~~ in this article.
7 Standards and requirements may include, but are not limited to,
8 practice standards, practice parameters, quality indicators,
9 minimal standards of acceptance, advanced training and
10 certification and continuing education: *Provided, That such*
11 standards and requirements for practice may not be construed to
12 alter or affect in any way the standards and requirements for
13 licensing as set forth elsewhere in this article;

14 (7) Conduct its proceedings in accordance with provisions of
15 article nine-a, chapter six of this code; and

16 (8) Employ, direct and define the duties of administrative
17 clerical support staff.

18 ~~(f) After having conducted a regulatory board evaluation~~
19 ~~through its joint committee on government operations, pursuant to~~
20 ~~article ten, chapter four of this code, the Legislature hereby~~
21 ~~finds and declares that the board of social work examiners be~~
22 ~~continued and reestablished. Accordingly, notwithstanding the~~
23 ~~provisions of said article, the board of social work examiners~~
24 ~~shall continue to exist until the first day of July, two thousand~~

1 ~~five.~~

2 **CHAPTER 47A. WEST VIRGINIA LENDING AND CREDIT RATE BOARD.**

3 **ARTICLE 1. LENDING AND CREDIT RATE BOARD.**

4 **§47A-1-1. Legislative findings; creation, membership, powers and**
5 **duties of board; termination of board.**

6 (a) The Legislature ~~hereby~~ finds and declares that:

7 (1) Changes in the permissible charges on loans, credit sales
8 or transactions, forbearance or other similar transactions requires
9 specialized knowledge of the needs of the citizens of West Virginia
10 for credit for personal and commercial purposes and knowledge of
11 the availability of such credit at reasonable rates to the citizens
12 of this state while affording a competitive return to persons
13 extending such credit;

14 (2) Maximum charges on loans, credit sales or transactions,
15 forbearance or other similar transactions executed in this state
16 should be prescribed from time to time to reflect changed economic
17 conditions, current interest rates and finance charges throughout
18 the United States and the availability of credit within the state
19 in order to promote the making of such loans in this state; and

20 (3) The prescribing of such maximum interest rates and finance
21 charges can be accomplished most effectively and flexibly by a
22 board comprised of the heads of designated government agencies,
23 university schools of business and administration and members of

1 the public.

2 (b) In view of the foregoing findings, it is the purpose of
3 this section to establish the West Virginia Lending and Credit Rate
4 Board and authorize said board to prescribe semiannually the
5 maximum interest rates and finance charges on loans, credit sales
6 or transactions, forbearance or similar transactions made pursuant
7 to this section subject to the provisions, conditions and
8 limitations hereinafter set forth and to authorize lenders, sellers
9 and other creditors to charge up to the maximum interest rates or
10 finance charges so fixed. The rates prescribed by the board are
11 alternative rates and any creditor may utilize either the rate or
12 rates set by the board or any other rate or rates which the
13 creditor is permitted to charge under any other provision of this
14 code.

15 (c) The West Virginia Lending and Credit Rate Board shall be
16 comprised of:

17 (1) The director of the Governor's office of Economic and
18 Community Development;

19 (2) The West Virginia State Treasurer;

20 (3) The West Virginia Banking Commissioner;

21 (4) The deans of the schools of business and administration at
22 Marshall University and West Virginia University;

23 (5) The Director of the Division of Consumer Protection of the
24 Attorney General's Office; and

1 (6) Three members of the public appointed by the Governor with
2 the advice and consent of the Senate. The members of the public
3 shall be appointed for terms of six years each, and until their
4 successors are appointed and qualified; except that of the members
5 first appointed, one shall be appointed for a term of two years,
6 one for a term of four years and one for a term of six years. A
7 member who has served one full term of six years shall be
8 ineligible for appointment for the next succeeding term. Vacancies
9 shall be filled by appointment of the Governor with the advice and
10 consent of the Senate, or if any vacancy remains unfilled for three
11 months, by a majority vote of the board. The West Virginia Banking
12 Commissioner shall serve as chairperson of the board and the rate
13 or rates set by the board shall be determined by a majority vote of
14 those members of the board in attendance at the respective board
15 meeting.

16 (d) The West Virginia Lending and Credit Rate Board is ~~hereby~~
17 authorized and directed to meet after December 31, 1983, on the
18 first Tuesday of April and on the first Tuesday of October of each
19 year or more or less frequently as required by the circumstances
20 and to prescribe by order a maximum rate of interest and finance
21 charge for the next succeeding six months, effective on June 1 and
22 on December 1, for any loans, credit sales or transactions,
23 forbearance or similar transactions made pursuant to this section.
24 In fixing said maximum rates of interest and finance charge, the

1 board shall take into consideration prevailing economic conditions,
2 including the monthly index of long-term United States government
3 bond yields for the preceding calendar month, yields on
4 conventional commercial short-term loans and notes throughout West
5 Virginia and throughout the United States and on corporate
6 interest-bearing securities of high quality, the availability of
7 credit at reasonable rates to the citizens of this state which
8 afford a competitive return to persons extending ~~such~~ credit and
9 ~~such~~ other factors as the board may determine.

10 (e) Any petition proposing a change in the prescribed maximum
11 rates of interest and finance charges must be filed in the office
12 of the Banking Commissioner no later than ~~the~~ February 15 in order
13 to be voted on at the board meeting on the first Tuesday of April
14 and no later than August 15 in order to be voted on at the board
15 meeting on the first Tuesday of October. Whenever any change in
16 the prescribed maximum rates of interest and finance charges is
17 proposed the board shall schedule a hearing, at least fifteen days
18 prior to the board meeting at which the proposed rates of interest
19 and finance charge will be voted on by the members of the board,
20 and shall give all interested parties the opportunity to testify
21 and to submit information at such public hearing that is relevant.
22 Notice of the scheduled public hearing shall be issued and
23 disseminated to the public at least twenty days prior to the
24 scheduled date of the hearing.

1 (f) The board shall prescribe by order issued not later than
2 April 20 and not later than October 20, in accordance with the
3 provisions of subsection (d) of this section, the maximum rates of
4 interest and finance charge for the next succeeding six months for
5 any loan, credit sale, forbearance or similar transaction made
6 pursuant to this section and shall cause ~~such~~ the maximum rate of
7 interest and finance charge to be issued and disseminated to the
8 public, ~~such maximum rate of interest and finance charge~~ to be
9 effective on June 1 and December 1 for the next succeeding six
10 months.

11 (g) Notwithstanding the other provisions of this chapter, the
12 West Virginia Lending and Credit Rate Board shall not be required
13 to meet if no petition has been filed with the board requesting a
14 hearing and interest rates and economic conditions have not changed
15 sufficiently to indicate that any change in the existing rate order
16 would be required, and there are not at least two board members who
17 concur that a meeting of the board is necessary. If the board does
18 not meet, the maximum rates of interest and finance charges
19 prescribed by the board in the existing rate order shall remain in
20 full force and effect until the next time the board meets and
21 prescribes different maximum rates of interest and finance charges.

22 (h) If circumstances and economic conditions require, the
23 chairperson or any three board members, at any time, may call an
24 emergency interim meeting of the West Virginia Lending and Credit

1 Rate Board, at which time the chairperson shall give ten days'
2 notice of the scheduled emergency meeting to the public. All
3 interested parties shall have the opportunity to be heard and to
4 submit information at ~~such~~ the emergency meeting that is relevant.
5 Any and all emergency rate board orders shall be effective within
6 thirty days from the date of ~~such~~ the emergency meeting.

7 (i) Each member of the board, except those whose regular
8 salary is paid by the State of West Virginia, shall receive \$75 per
9 diem while actually engaged in the performance of the duties of the
10 board. Each member shall be reimbursed for all reasonable and
11 necessary expenses actually incurred during the performance of
12 their duties, except that in the event the expenses are paid by a
13 third party the members shall not be reimbursed by the state. The
14 reimbursement shall be paid out of the special revenue account of
15 the Division of Banking upon a requisition upon the State Auditor,
16 properly certified by the Banking Commissioner.

17 (j) In setting the maximum interest rates and finance charges,
18 the board may set varying rates based on the type of credit
19 transaction, the term of transaction, the type of debtor, the type
20 of creditor and other factors relevant to ~~determination of such~~
21 determining the rates. In addition, the board may set varying
22 rates for ranges of principal balances within a single category of
23 credit transactions.

24 ~~(k) Pursuant to the provisions of article ten, chapter four of~~

1 ~~this code, the West Virginia lending and credit rate board shall~~
2 ~~continue to exist until the first day of July, two thousand five."~~

NOTE: The purpose of this bill is to remove antiquated, ineffective and nonimplemented sections from the code.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.