

COMMITTEE SUBSTITUTE

FOR

H. B. 2804

(BY DELEGATES MORGAN, SWARTZMILLER, HARTMAN,
GIVENS, MANYPENNY AND STAGGERS)

(Originating in the Committee on the Judiciary)
[January 28, 2011]

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; 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That §16-1-16 of the Code of West Virginia, 1931, as amended, be repealed; that §5-6-1 of said code be amended and reenacted; that §5A-1-11 of said code be amended and reenacted; that §5B-1-1a of said code be amended and reenacted; that §9-2-1a of said code be amended and reenacted; that §17B-2-7a of said code be amended and reenacted; that §17C-15-44 of said code be amended and reenacted; that §18-10A-2 of said code be amended and reenacted; that §19-1-3a of said code be amended and reenacted; that §19-12A-3 of said code be amended and reenacted; that §22C-12-6 of said code be amended and reenacted; that §24-1-3 of said code be amended and reenacted; that §24A-1A-2 of said code be amended and reenacted; that §24E-1-11 of said code be amended and reenacted; and that §47A-1-1 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 6. STATE BUILDINGS.

**§5-6-1. Name of State Office Building Commission changed;
composition; appointment, terms and qualifications
of members; chairman and secretary; compensation
and expenses; powers and duties generally;
frequency of meetings; continuation.**

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

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

11 (c) The terms of office for said members to be appointed
12 by the Governor shall be four years, except that the terms of

13 office of the first four members so appointed by the Governor
14 shall be for one, two, three and four years, respectively.

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

25 (e) The members of the commission shall be paid or
26 reimbursed for their necessary expenses incurred under this
27 article, but shall receive no compensation for their services
28 as members or officers of the commission: *Provided*, That
29 each member of the commission appointed by the Governor
30 shall, in addition to such reimbursement for necessary
31 expenses, receive an amount not to exceed the same

32 compensation as is paid to members of the Legislature for
33 their interim duties as recommended by the Citizens
34 Legislative Compensation Commission and authorized by
35 law for each day or substantial portion thereof that he or she
36 is engaged in the work of the commission. Such expenses
37 and per diem shall be paid solely from funds provided under
38 the authority of this article, and the commission shall not
39 proceed to exercise or carry out any authority or power
40 herein given it to bind said commission beyond the extent to
41 which money has been provided under the authority of this
42 article.

43 (f) On or before the fifteenth day of each month, the
44 commission shall prepare and transmit to the President and
45 Minority Leader of the Senate and the Speaker and the
46 Minority Leader of the House of Delegates a report covering
47 the activities of the said commission for the preceding
48 calendar month.

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

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

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

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

1 (a) There is ~~hereby created~~ continued within the
2 Department of Administration the position of the state
3 Americans with Disabilities Coordinator, who shall be
4 appointed by the Secretary of the Department of
5 Administration with input from the chairperson from each of
6 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
12 shall have an in-depth working knowledge of the challenges
13 facing persons with disabilities. The coordinator may be a
14 current employee of the Department of Administration or
15 other state agency employee.

16 (c) The coordinator shall:

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

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

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

28 (4) Consult and collaborate with agency Americans with
29 Disabilities officers on the appropriate training for managers
30 and supervisors on regulations and issues;

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

33 (6) Advise the Governor and agency heads on Americans
34 with disabilities issues;

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

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

42 (d)(1) The Secretary of the Department of Administration
43 may assess, charge and collect fees from each state spending
44 unit which utilizes the services of the coordinator, for the
45 direct costs and expenses incurred by the coordinator in
46 providing those services. Costs and expenses include travel,
47 materials, equipment and supplies. Moneys shall be collected
48 through the Division of Finance.

49 (2) A state spending unit shall agree in writing to all costs
50 and expenses before the services by the Americans with
51 Disabilities coordinator are rendered.

52 (e) There is ~~hereby created~~ continued in the Department
53 of Administration a special fund to be named the “Americans

54 with Disabilities Coordinator Fund”, which shall be an
55 interest-bearing account and may be invested in accordance
56 with the provisions of article six, chapter twelve of this code,
57 with the interest income a proper credit to the fund. Funds
58 paid into the account may be derived from the following
59 sources:

60 (1) All moneys received from state spending units for the
61 costs and expenses incurred by the state Americans with
62 Disabilities coordinator for providing services related to the
63 state’s implementation and compliance with 42 U.S.C.
64 §12101, *et seq.*, the federal Americans with Disabilities Act;

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

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

70 (f) Moneys in the fund are to be used for the costs and
71 expenses incurred pursuant to this section. Any balance
72 including accrued interest in this special fund at the end of

73 any fiscal year shall not revert to the General Revenue Fund,
74 but shall remain in the fund for use by the Secretary of the
75 Department of Administration for providing additional
76 Americans with Disabilities coordinator services within the
77 State of West Virginia in the ensuing fiscal years.

78 (g) The Secretary of the Department of Administration
79 shall report annually on the fund to the Governor, President
80 of the Senate and Speaker of the House of Delegates. The
81 report must be on CD ROM or other electronic media and
82 shall not be in print format.

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

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

ARTICLE 1. DEPARTMENT OF COMMERCE.

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

1 (a) There is ~~hereby created~~ continued in the Department
2 of Commerce the Marketing and Communications Office.
3 The office is created to provide marketing and
4 communications goods and services to other state agencies,
5 departments, units of state or local government or other entity
6 or person.

7 (b) The office is authorized to charge for goods and
8 services it provides to other state agencies. The Secretary of
9 the Department of Commerce shall approve a fee schedule
10 determining the amounts that may be charged for goods and
11 services provided by the office to other state agencies.

12 (c) All moneys collected shall be deposited in a special
13 account in the State Treasury to be known as the Department
14 of Commerce Marketing and Communications Operating
15 Fund. Expenditures from the fund shall be for the operation
16 of the office and are not authorized from collections but are
17 to be made only in accordance with appropriation by the
18 Legislature and in accordance with the provisions of article
19 two, chapter eleven-b of this code. ~~Provided, That for the~~

20 ~~fiscal year ending June 30, 2008, expenditures are authorized~~
21 ~~from collections and shall be expended at the discretion of~~
22 ~~the Secretary of the Department of Commerce rather than~~
23 ~~pursuant to appropriation by the Legislature.~~

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

28 (e) The Department of Commerce shall develop and
29 maintain a system of annual or more frequent performance
30 measures useful in gauging the efficiency and effectiveness
31 of the office's marketing and communications activities. The
32 measures shall also reflect the office's efficiency and
33 effectiveness with respect to commercially available
34 marketing and communications services and any private
35 sector benchmarks which might be identified or created. For
36 the purposes of this section, "performance measures" means
37 income, output, quality, self-sufficiency and outcome
38 metrics.

39 (f) ~~Beginning on January 1, 2008, and annually every~~
 40 ~~year thereafter~~ On January 1 of each year, the Secretary of
 41 the Department of Commerce shall report to the Joint
 42 Committee on Government and Finance, the Joint Standing
 43 Committee on Finance and the Joint Commission on
 44 Economic Development on the performance of the office.
 45 This report is to include a statement of the performance
 46 measurements for the office developed by the Secretary of
 47 the Department of Commerce and an analysis of the office's
 48 performance.

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

CHAPTER 9. HUMAN SERVICES.

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES;
 P O W E R S , D U T I E S A N D
 RESPONSIBILITIES GENERALLY.**

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

1 The Department of Health and Human Resources shall be
 2 charged with the administration of this chapter. ~~Pursuant to~~

3 ~~the provisions of article ten, chapter four of this code, the~~
4 ~~Department of Health and Human Resources shall continue~~
5 ~~to exist until the first day of July, two thousand six, unless~~
6 ~~sooner terminated, continued or reestablished.~~

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

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

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

1 (a) The Driver's Licensing Advisory Board is hereby
2 continued. The board shall consist of five members to be
3 appointed by the Governor, by and with the advice and
4 consent of the Senate, for terms of three years, except that as
5 to the members first appointed, two shall be appointed for a
6 term of three years, two shall be appointed for a term of two
7 years and one shall be appointed for a term of one year, all
8 from July 1, 1974. All vacancies occurring on the board shall
9 be filled by the Governor, by and with the advice and consent
10 of the Senate. One member of the board shall be an
11 optometrist duly registered to practice optometry in this state

12 and the other four members of the board shall be physicians
13 or surgeons duly licensed to practice medicine or surgery in
14 this state. The Governor shall appoint persons qualified to
15 serve on the board who, in his opinion, will best serve the
16 work and function of the board.

17 (b) The board shall advise the Commissioner of Motor
18 Vehicles as to vision standards and all other medical criteria
19 of whatever kind or nature relevant to the licensing of
20 persons to operate motor vehicles under the provisions of this
21 chapter. The board shall, upon request, advise the
22 Commissioner of Motor Vehicles as to the mental or physical
23 fitness of an applicant for, or the holder of, a license to
24 operate a motor vehicle. The board shall furnish the
25 commissioner with all such medical standards, statistics,
26 data, professional information and advice as he may
27 reasonably request.

28 (c) The members of the board shall receive compensation
29 and expense reimbursement in an amount not to exceed the
30 same compensation and expense reimbursement as is paid to

31 members of the Legislature for their interim duties as
32 recommended by the Citizens Legislative Compensation
33 Commission and authorized by law, for each day or
34 substantial portion thereof engaged in the performance of
35 official duties.

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

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

ARTICLE 15. EQUIPMENT.

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

1 (a) No person shall operate or be a passenger on any
2 motorcycle or motor-driven cycle unless the person is
3 wearing securely fastened on his or her head by either a neck
4 or chin strap a protective helmet designed to deflect blows,
5 resist penetration and spread impact forces. Any helmet
6 worn by an operator or passenger shall meet the current

7 performance specifications established by the American
8 National Standards Institute Standard, Z 90.1, the United
9 States Department of Transportation Federal Motor Vehicle
10 Safety Standard No. 218 or Snell Safety Standards for
11 Protective Headgear for Vehicle Users.

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

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

31 (d) A person operating a motorcycle, motor-driven cycle
32 or moped shall ride in a seated position facing forward and
33 only upon a permanent operator's seat attached to the
34 vehicle. No operator shall carry any other person nor shall
35 any other person ride on the vehicle unless the vehicle is
36 designed to carry more than one person, in which event a
37 passenger may ride behind the operator upon the permanent
38 operator's seat if it is designed for two persons, or upon
39 another seat firmly attached to the vehicle to the rear of the
40 operator's seat and equipped with footrests designed and
41 located for use by the passenger or in a sidecar firmly
42 attached to the vehicle. No person shall ride side saddle on
43 a seat. An operator may carry as many passengers as there
44 are seats and footrests to accommodate those passengers.
45 Additional passengers may be carried in a factory produced

46 sidecar provided that there is one passenger per seat.
47 Passengers riding in a sidecar shall be restrained by safety
48 belts.

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

54 (f) There is ~~hereby created~~ continued a six member
55 Motorcycle Safety and Education Committee consisting of:
56 The Superintendent of the State Police or a designee; the
57 Commissioner of Motor Vehicles or a designee; the Director
58 of the West Virginia Safety Council or a designee; a licensed
59 motorcycle operator; an owner of a motorcycle dealership;
60 and a supplier of aftermarket nonfranchised motorcycle
61 supplies. The nongovernmental representatives shall be
62 appointed by the Governor with the advice and consent of the
63 Senate, shall serve without compensation, and the terms shall
64 be for three years, except that as to the members first

65 appointed, one shall be appointed for a term of one year, one
66 shall be appointed for a term of two years and one shall be
67 appointed for a term of three years. Members may be
68 reappointed to the committee.

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

74 The committee is hereby authorized to recommend to the
75 Superintendent of Public Safety types and makes of
76 protective helmets, eye protection devices and equipment
77 offered for sale, purchased or used by any person. The
78 committee is authorized to make recommendations to the
79 Commissioner of Motor Vehicles regarding the use of the
80 moneys in the Motorcycle Safety Fund created under section
81 seven, article one-d, chapter seventeen-b of this code.

CHAPTER 18. EDUCATION.

ARTICLE 10A. REHABILITATION SERVICES.

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

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

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

19 and all references to the Director of the Division of
20 Vocational Rehabilitation means the Director of the Division
21 of Rehabilitation Services.

22 ~~Pursuant to the provisions of article ten, chapter four of~~
23 ~~this code, the Division of Rehabilitation Services shall~~
24 ~~continue to exist until the first day of July, two thousand four.~~

CHAPTER 19. AGRICULTURE.

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

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

1 In recognition that ~~article ten, chapter four of this code~~
2 ~~requires a preliminary performance review of the rural~~
3 ~~resource division of the Department of Agriculture and that~~
4 ~~performance standards must be stated before such audit can~~
5 ~~be performed, the rural resources division is hereby formally~~
6 ~~established and renamed the marketing and development~~
7 ~~division in the Department of Agriculture.~~ The duties of the
8 Marketing and Development Division are to establish
9 marketing, promotional and development programs to
10 advance West Virginia agriculture in the domestic and

11 international markets; to provide grading, inspection and
12 market news services to the various elements of the West
13 Virginia agricultural industry; and to regulate and license
14 individuals involved in the marketing of agricultural
15 products.

ARTICLE 12A. LAND DIVISION.

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

1 (a) The Farm Management Commission heretofore
2 created is hereby continued and shall be composed of three
3 members who are the Commissioner of Agriculture, who
4 shall be chairman, the Secretary of the Department of
5 Administration and the Dean of the West Virginia University
6 College of Agriculture and Forestry. No business may be
7 transacted by the commission in the absence of a quorum
8 which consists of two members including the chairman. The
9 farm management commission shall hold meetings at least
10 once every two months and on call of the chairman.

11 **(b)** If a vacancy occurs on the commission, the Farm
12 Management Director, as provided in this article, shall act as
13 a member of the commission until the vacancy is filled.

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

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

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

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

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

1 This article shall take effect and become operative and
2 the compact be executed for and on behalf of this state only

3 from and after the approval, ratification₂ and adoption and
 4 entering into thereof by the states of New York,
 5 Pennsylvania, Ohio and Virginia.

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

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

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

1 (a) The Public Service Commission of West Virginia is
 2 continued and directed as provided by this chapter, chapter

3 twenty-four-a, chapter twenty-four-b and chapter twenty-
4 four-d of this code. ~~After having conducted a performance~~
5 ~~audit through its joint committee on government operations,~~
6 ~~pursuant to section nine, article ten, chapter four of this code,~~
7 ~~the Legislature hereby finds and declares that the Public~~
8 ~~Service Commission should be continued and reestablished.~~
9 ~~Accordingly, notwithstanding the provisions of section five,~~
10 ~~article ten, chapter four of this code, the Public Service~~
11 ~~Commission shall continue to exist until the first day of July,~~
12 ~~two thousand three.~~ The Public Service Commission may
13 sue and be sued by that name. The Public Service
14 Commission shall consist of three members who shall be
15 appointed by the Governor, with the advice and consent of
16 the Senate. The commissioners shall be citizens and
17 residents of this state and at least one of them shall be duly
18 licensed to practice law in West Virginia, with not less than
19 ten years' actual work experience in the legal profession as
20 a member of a state bar. No more than two of the
21 commissioners shall be members of the same political party.
22 Each commissioner shall, before entering upon the duties of

23 his or her office, take and subscribe to the oath provided by
24 section five, article IV of the Constitution of this state. The
25 oath shall be filed in the Office of the Secretary of State. The
26 Governor shall designate one of the commissioners to serve
27 as chairman at the Governor's will and pleasure. The
28 chairman shall be the chief administrative officer of the
29 commission. The Governor may remove any commissioner
30 only for incompetency, neglect of duty, gross immorality,
31 malfeasance in office or violation of subsection (c) of this
32 section.

33 (b) The unexpired terms of members of the Public
34 Service Commission at the time this subsection becomes
35 effective are continued. Upon expiration of the terms,
36 appointments are for terms of six years, except that an
37 appointment to fill a vacancy is for the unexpired term only.
38 The commissioners whose terms are terminated by the
39 provisions of this subsection are eligible for reappointment.

40 (c) No person while in the employ of, or holding any
41 official relation to, any public utility subject to the provisions
42 of this chapter or holding any stocks or bonds of a public

43 utility subject to the provisions of this chapter or who is
44 pecuniarily interested in a public utility subject to the
45 provisions of this chapter may serve as a member of the
46 commission or as an employee of the commission. ~~Not may~~
47 ~~any~~ No commissioner may be a candidate for or hold public
48 office or be a member of any political committee while acting
49 as a commissioner², nor may any commissioner or employee
50 of the commission receive any pass, free transportation or
51 other thing of value, either directly or indirectly, from any
52 public utility or motor carrier subject to the provisions of this
53 chapter. ~~In case any of the commissioners~~ If a commissioner
54 becomes a candidate for any public office or a member of
55 any political committee, the Governor shall remove him or
56 her from office and shall appoint a new commissioner to fill
57 the vacancy created.

58 (d) The salaries of members of the Public Service
59 Commission and the manner in which they are paid
60 established by the prior enactment of this section are
61 continued. ~~Effective July 1, 2001,~~ The annual salary of each
62 commissioner provided in section two-a, article seven,

63 chapter six of this code shall be paid in monthly installments
64 from the special funds in the percentages that follow:

65 (1) From the Public Service Commission Fund collected
66 under the provisions of section six, article three of this
67 chapter, eighty percent;

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

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

74 (e) In addition to the salary provided for all
75 commissioners in section two-a, article seven, chapter six of
76 this code, the chairman of the commission shall receive
77 \$5,000 per annum to be paid in monthly installments from
78 the Public Service Commission Fund collected under the
79 provisions of section six, article three of this chapter.

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

ARTICLE 1A. COMMERCIAL VEHICLE REGULATION.

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

1 (a) There is ~~created~~ continued the Commercial Motor
2 Vehicle Weight and Safety Enforcement Advisory
3 Committee, the purpose of which is to study the
4 implementation of the commercial motor vehicle weight and
5 safety enforcement program set forth in this article.

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

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

10 (2) One member who is an employee of the Public
11 Service Commission, to be appointed by the Chairman of the
12 Public Service Commission;

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

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

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

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

22 (7) One member of the Senate, to be appointed by the
23 President of the Senate;

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

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

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

30 (11) One member of the largest organization representing
31 natural resource transportation drivers, to be appointed by the
32 Governor.

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

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

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

41 (f) The public members of the committee may receive
42 compensation for attendance at official meetings, not to
43 exceed the amount paid to members of the Legislature for
44 their interim duties as recommended by the Citizens
45 Legislative Compensation Commission and authorized by
46 law.

47 (g) Committee members may be reimbursed for actual
48 and necessary expenses incurred for each day or portion of a
49 day engaged in the discharge of committee duties in a
50 manner consistent with guidelines of the Travel Management
51 Office of the Department of Administration.

52 (h) On or before January 1 2004, and of each subsequent
53 ~~year thereafter~~ the committee shall submit to the Governor
54 and to the Legislature a report of its recommendations for
55 improving the effectiveness of the commercial vehicle weight
56 and safety enforcement program.

57 (i) ~~The commercial vehicle weight and safety~~
58 ~~enforcement advisory committee shall continue to exist until~~
59 ~~the first day of July, two thousand seven, pursuant to the~~
60 ~~provisions of article ten, chapter four of this code, unless~~
61 ~~sooner terminated, continued or reestablished pursuant to the~~
62 ~~provisions of that article.~~

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

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

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

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

8 (b) Upon final termination of the board, county
9 commissions shall maintain and update the addressing and

10 mapping systems within their respective jurisdictions under
11 the standards established by the board, as updated thereafter
12 by the Division of Homeland Security and Emergency
13 Management of the Department of Military Affairs and
14 Public Safety under this section, and shall supply the updated
15 information to the division in the format it establishes
16 through its rule-making authority.

17 (c) Except as provided in subsection (b) of this section,
18 upon final termination of the board, the powers and duties of
19 the board shall be transferred to the Division of Homeland
20 Security and Emergency Management.

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

26 (1) Maintain and update the standards for statewide
27 addressing and mapping;

28 (2) Establish standard reasonable fees, based on cost, to
29 be charged by county commissions for copies or use of any

30 maps, compilations or other works created as a result of the
31 statewide addressing and mapping, subject to the exemptions
32 provided under section nine of this article;

33 (3) Govern centralization and interoperability of the
34 county systems within the integrated statewide addressing
35 and mapping system; and

36 (4) Ensure the public safety in any manner the division
37 considers advisable.

38 (e) Upon final termination of the board, the division may
39 propose rules for legislative approval in accordance with the
40 provisions of article three, chapter twenty-nine-a of this code
41 for the purposes set forth in this article.

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

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

50 (h) Effective July 1, 2010, the Statewide Addressing and
51 Mapping Board shall become an advisory board within the
52 Division of Homeland Security and Emergency Management
53 and will continue to be composed as set forth in this article
54 and the members will serve at the will and pleasure of the
55 Governor.

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

ARTICLE 1. LENDING AND CREDIT RATE BOARD.

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

1 (a) The Legislature hereby finds and declares that:
2 (1) Changes in the permissible charges on loans, credit
3 sales or transactions, forbearance or other similar transactions
4 requires specialized knowledge of the needs of the citizens of
5 West Virginia for credit for personal and commercial
6 purposes and knowledge of the availability of such credit at
7 reasonable rates to the citizens of this state while affording a
8 competitive return to persons extending such credit;

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

16 (3) The prescribing of such maximum interest rates and
17 finance charges can be accomplished most effectively and
18 flexibly by a board comprised of the heads of designated
19 government agencies, university schools of business and
20 administration and members of the public.

21 (b) In view of the foregoing findings, it is the purpose of
22 this section to establish the West Virginia Lending and Credit
23 Rate Board and authorize said board to prescribe
24 semiannually the maximum interest rates and finance charges
25 on loans, credit sales or transactions, forbearance or similar
26 transactions made pursuant to this section subject to the
27 provisions, conditions and limitations hereinafter set forth

28 and to authorize lenders, sellers and other creditors to charge
29 up to the maximum interest rates or finance charges so fixed.
30 The rates prescribed by the board are alternative rates and
31 any creditor may utilize either the rate or rates set by the
32 board or any other rate or rates which the creditor is
33 permitted to charge under any other provision of this code.

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

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

38 (2) The West Virginia State Treasurer;

39 (3) The West Virginia Banking Commissioner;

40 (4) The deans of the schools of business and
41 administration at Marshall University and West Virginia
42 University;

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

45 (6) Three members of the public appointed by the
46 Governor with the advice and consent of the Senate. The

47 members of the public shall be appointed for terms of six
48 years each, and until their successors are appointed and
49 qualified; except that of the members first appointed, one
50 shall be appointed for a term of two years, one for a term of
51 four years and one for a term of six years. A member who
52 has served one full term of six years shall be ineligible for
53 appointment for the next succeeding term. Vacancies shall
54 be filled by appointment of the Governor with the advice and
55 consent of the Senate, or if any vacancy remains unfilled for
56 three months, by a majority vote of the board. The West
57 Virginia Banking Commissioner shall serve as chairperson of
58 the board and the rate or rates set by the board shall be
59 determined by a majority vote of those members of the board
60 in attendance at the respective board meeting.

61 (d) The West Virginia Lending and Credit Rate Board is
62 ~~hereby~~ authorized and directed to meet after December 31,
63 1983, on the first Tuesday of April and on the first Tuesday
64 of October of each year or more or less frequently as required
65 by the circumstances and to prescribe by order a maximum

66 rate of interest and finance charge for the next succeeding six
67 months, effective on June 1 and on December 1, for any
68 loans, credit sales or transactions, forbearance or similar
69 transactions made pursuant to this section. In fixing said
70 maximum rates of interest and finance charge, the board shall
71 take into consideration prevailing economic conditions,
72 including the monthly index of long-term United States
73 government bond yields for the preceding calendar month,
74 yields on conventional commercial short-term loans and
75 notes throughout West Virginia and throughout the United
76 States and on corporate interest-bearing securities of high
77 quality, the availability of credit at reasonable rates to the
78 citizens of this state which afford a competitive return to
79 persons extending ~~such~~ credit and ~~such~~ other factors as the
80 board may determine.

81 (e) Any petition proposing a change in the prescribed
82 maximum rates of interest and finance charges must be filed
83 in the office of the Banking Commissioner no later than ~~the~~
84 February 15 in order to be voted on at the board meeting on

85 the first Tuesday of April and no later than August 15 in
86 order to be voted on at the board meeting on the first Tuesday
87 of October. Whenever any change in the prescribed
88 maximum rates of interest and finance charges is proposed
89 the board shall schedule a hearing, at least fifteen days prior
90 to the board meeting at which the proposed rates of interest
91 and finance charge will be voted on by the members of the
92 board, and shall give all interested parties the opportunity to
93 testify and to submit information at such public hearing that
94 is relevant. Notice of the scheduled public hearing shall be
95 issued and disseminated to the public at least twenty days
96 prior to the scheduled date of the hearing.

97 (f) The board shall prescribe by order issued not later
98 than April 20 and not later than October 20, in accordance
99 with the provisions of subsection (d) of this section, the
100 maximum rates of interest and finance charge for the next
101 succeeding six months for any loan, credit sale, forbearance
102 or similar transaction made pursuant to this section and shall
103 cause ~~such~~ the maximum rate of interest and finance charge

104 to be issued and disseminated to the public, ~~such maximum~~
105 ~~rate of interest and finance charge~~ to be effective on June 1
106 and December 1 for the next succeeding six months.

107 (g) Notwithstanding the other provisions of this chapter,
108 the West Virginia Lending and Credit Rate Board shall not
109 be required to meet if no petition has been filed with the
110 board requesting a hearing and interest rates and economic
111 conditions have not changed sufficiently to indicate that any
112 change in the existing rate order would be required, and there
113 are not at least two board members who concur that a
114 meeting of the board is necessary. If the board does not
115 meet, the maximum rates of interest and finance charges
116 prescribed by the board in the existing rate order shall remain
117 in full force and effect until the next time the board meets
118 and prescribes different maximum rates of interest and
119 finance charges.

120 (h) If circumstances and economic conditions require, the
121 chairperson or any three board members, at any time, may
122 call an emergency interim meeting of the West Virginia

123 Lending and Credit Rate Board, at which time the
124 chairperson shall give ten days' notice of the scheduled
125 emergency meeting to the public. All interested parties shall
126 have the opportunity to be heard and to submit information
127 at ~~such~~ the emergency meeting that is relevant. Any and all
128 emergency rate board orders shall be effective within thirty
129 days from the date of ~~such~~ the emergency meeting.

130 (i) Each member of the board, except those whose regular
131 salary is paid by the State of West Virginia, shall receive \$75
132 per diem while actually engaged in the performance of the
133 duties of the board. Each member shall be reimbursed for all
134 reasonable and necessary expenses actually incurred during
135 the performance of their duties, except that in the event the
136 expenses are paid by a third party the members shall not be
137 reimbursed by the state. The reimbursement shall be paid out
138 of the special revenue account of the Division of Banking
139 upon a requisition upon the State Auditor, properly certified
140 by the Banking Commissioner.

141 (j) In setting the maximum interest rates and finance
142 charges, the board may set varying rates based on the type of

143 credit transaction, the term of transaction, the type of debtor,
144 the type of creditor and other factors relevant to
145 ~~determination of such~~ determining the rates. In addition, the
146 board may set varying rates for ranges of principal balances
147 within a single category of credit transactions.

148 (k) ~~Pursuant to the provisions of article ten, chapter four~~
149 ~~of this code, the West Virginia lending and credit rate board~~
150 ~~shall continue to exist until the first day of July, two~~
151 ~~thousand five.~~”