

COMMITTEE SUBSTITUTE

FOR

# **H. B. 3094**

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(BY DELEGATES SMITH, JONES, L. PHILLIPS, D. POLING,  
LONGSTRETH, SHAVER, WALKER, FRAGALE, CAPUTO, MARTIN  
AND STAGGERS)

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(Originating in the Committee on Finance)  
[February 23, 2011]

A BILL to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, relating to requiring the Secretary of the Department of Health and Human Services to use existing department funds to develop a program to compensate employees for personal property loss in work related incidents.

*Be it enacted by the Legislature of West Virginia:*

That §9-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES;  
P O W E R S , D U T I E S A N D  
R E S P O N S I B I L I T I E S G E N E R A L L Y .**

**§9-2-6. Powers of secretary.**

1 Within limits of state appropriations and federal grants  
2 and subject to provisions of state and federal laws and  
3 regulations, the secretary, in addition to all other powers,  
4 duties and responsibilities granted and assigned to that office  
5 in this chapter and elsewhere by law, is authorized and  
6 empowered to:

7 (1) Promulgate, amend, revise and rescind department  
8 rules respecting the organization and government of the  
9 department and the execution and administration of those  
10 powers, duties and responsibilities granted and assigned by  
11 this chapter and elsewhere by law to the department and the  
12 secretary.

13 (2) Promulgate, amend, revise and rescind department  
14 rules and regulations respecting qualifications for receiving

15 the different classes of welfare assistance consistent with or  
16 permitted by federal laws, rules and policies, but not  
17 inconsistent with state law: *Provided*, That such rules and  
18 policies respecting qualifications shall permit the expenditure  
19 of state funds to pay for care rendered in any birthing center  
20 licensed under the provisions of article two-e, chapter sixteen  
21 of this code by a licensed nurse midwife or midwife as this  
22 occupation is defined in section one, article fifteen, chapter  
23 thirty of this code and which care is within the scope of  
24 duties for such licensed nurse midwife or midwife as  
25 permitted by the provisions of section seven of said article.

26 (3) Obtain by purchase or lease such grounds, buildings,  
27 office or other space, equipment, facilities and services as  
28 may be necessary for the execution and administration of  
29 those powers, duties and responsibilities granted and  
30 assigned by this chapter and elsewhere by law to the  
31 department and the secretary.

32 (4) Sign and execute in the name of the state by the State  
33 Department of Health and Human Resources any contract or

34 agreement with the federal government or its agencies, other  
35 states, political subdivisions of this state, corporations,  
36 associations, partnerships or individuals.

37 (5) Establish such special funds as may be required by  
38 the federal Social Security Act, as amended, or by any other  
39 Act or Acts of Congress, in order for this state to take full  
40 advantage of the benefits and provisions thereof relating to  
41 the federal-state assistance and federal assistance programs  
42 administered by the department and to make payments into  
43 and disbursements out of any such special fund or funds in  
44 accordance with the requirements of the federal Social  
45 Security Act, as amended, or any other Act or Acts of  
46 Congress, and in accordance with applicable state law and  
47 the objects and purposes of this chapter. In addition, the  
48 State Department of Health and Human Resources, through  
49 the secretary, is hereby authorized to accept any and all gifts  
50 or grants, whether in money, land, services or materials,  
51 which gift or gifts, if in the form of moneys, shall be placed  
52 in a separate fund and expended solely for the purpose of

53 public assistance programs. No part of this special fund shall  
54 revert to the General Revenue Funds of this state. No  
55 expenses incurred pursuant to this special fund shall be a  
56 charge against the General Funds of this state.

57 (6) Establish within the department an Office of Inspector  
58 General for the purpose of conducting and supervising  
59 investigations and for the purpose of providing quality  
60 control for the programs of the department. The Office of  
61 Inspector General shall be headed by the Inspector General  
62 who shall report directly to the secretary. Neither the  
63 secretary nor any employee of the department may prevent,  
64 inhibit or prohibit the Inspector General or his or her  
65 employees from initiating, carrying out or completing any  
66 investigation, quality control review or other activity  
67 oversight of public integrity by the Office of the Inspector  
68 General. The secretary shall place within the Office of  
69 Inspector General any function he or she deems necessary.  
70 Qualification, compensation and personnel practice relating  
71 to the employees of the Office of the Inspector General,

72 including that of the position of Inspector General, shall be  
73 governed by the classified service provisions of article six,  
74 chapter twenty-nine of this code and rules promulgated  
75 thereunder. The Inspector General shall supervise all  
76 personnel of the Office of Inspector General.

77 (7) Provide at department expense a program of  
78 continuing professional, technical and specialized instruction  
79 for the personnel of the department.

80 (8) Pay from available funds all or part of the reasonable  
81 expenses incurred by a person newly employed by the  
82 department in moving his household furniture, effects and  
83 immediate family from his or her place of residence in this  
84 state to his or her place of employment in this state; and to  
85 pay from available funds all or part of the reasonable  
86 expenses incurred by a department employee in moving his  
87 or her household furniture, effects and immediate family as  
88 a result of a reassignment of the employee which is  
89 considered desirable, advantageous to and in the best  
90 interests of the state, but no part of the moving expenses of

91 any one such employee shall be paid more frequently than  
92 once in twelve months or for any movement other than from  
93 one place of employment in this state to another place of  
94 employment in this state.

95 (9) Establish a program to provide reimbursement to  
96 employees of the department whose items of personal  
97 property, as defined by the department by policy, are  
98 damaged during the course of employment or other work-  
99 related activity as a result of aggressive behavior by a client  
100 or patient receiving services from the department: *Provided,*  
101 That such reimbursement is limited to a maximum amount of  
102 \$250.00 per claim.

103 ~~(9)~~ (10) Establish and maintain such institutions as are  
104 necessary for the temporary care, maintenance and training  
105 of children and other persons.

106 ~~(10)~~ (11) Prepare and submit state plans which will meet  
107 the requirements of federal laws, rules governing federal-  
108 state assistance and federal assistance and which are not  
109 inconsistent with state law.

110        ~~(11)~~ (12) Organize within the department a Board of  
111        Review, consisting of a Chairman appointed by the secretary  
112        and as many assistants or employees of the department as  
113        may be determined by the secretary and as may be required  
114        by federal laws and rules respecting state assistance, federal-  
115        state assistance and federal assistance, such Board of Review  
116        to have such powers of a review nature and such additional  
117        powers as may be granted to it by the secretary and as may  
118        be required by federal laws and rules respecting federal-state  
119        assistance and federal assistance.

120        ~~(12)~~ (13) Provide by rules such review and appeal  
121        procedures within the Department of Health and Human  
122        Resources as may be required by applicable federal laws and  
123        rules respecting state assistance, federal-state assistance and  
124        federal assistance and as will provide applicants for, and  
125        recipients of all, classes of welfare assistance an opportunity  
126        to be heard by the board of Review, a member thereof, or  
127        individuals designated by the board, upon claims involving  
128        denial, reduction, closure, delay or other action or inaction  
129        pertaining to public assistance.



130       ~~(13)~~ (14) Provide by rules, consistent with requirements  
131 of applicable federal laws and rules, application forms and  
132 application procedures for the various classes of public  
133 assistance.

134       ~~(14)~~ (15) Provide locations for making applications for  
135 the various classes of public assistance.

136       ~~(15)~~ (16) Provide a citizen or group of citizens an  
137 opportunity to file objections and to be heard upon objections  
138 to the grant of any class of public assistance.

139       ~~(16)~~ (17) Delegate to the personnel of the department all  
140 powers and duties vested in the secretary, except the power  
141 and authority to sign contracts and agreements.

142       ~~(17)~~(18) Make such reports in such form and containing  
143 such information as may be required by applicable federal  
144 laws and rules respecting federal-state assistance and federal  
145 assistance.

146       ~~(18)~~ (19) Invoke any legal, equitable or special remedies  
147 for the enforcement of the provisions of this chapter.