

ENGROSSED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 238

(By Senators Kessler (Acting President) and Hall,
By Request of the Executive)

[Originating in the Committee on Finance;
reported February 18, 2011.]

A BILL to amend and reenact §4-10-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §9A-1-1, §9A-1-2 and §9A-1-4 of said code; and to amend said code by adding thereto four new sections, designated §9A-1-1a, §9A-1-1b, §9A-1-1c and §9A-1-1d, all relating to redesignating the Division of Veterans' Affairs as the Department of Veterans' Assistance within the executive branch; establishing the time period for review of the Department of Veterans' Assistance by

the Joint Standing Committee on Government Organization and the Joint Committee on Government Operations; providing that the Veterans' Council be part of the Department of Veterans' Assistance; providing that the department be supervised by a secretary-level administrator; establishing the salary of the secretary; providing an effective date for redesignation; making other changes to the code to comport with the amendment; and providing technical and clerical cleanup.

Be it enacted by the Legislature of West Virginia:

That §4-10-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §5F-1-2 of said code be amended and reenacted; that §5F-2-1 of said code be amended and reenacted; that §6-7-2a of said code be amended and reenacted; that §9A-1-1, §9A-1-2 and §9A-1-4 of said code be amended and reenacted; and that said code be amended by adding thereto four new sections, designated §9A-1-1a, §9A-1-1b, §9A-1-1c and §9A-1-1d, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 10. PERFORMANCE REVIEW ACT.

§4-10-8. Schedule of departments for agency review.

- 1 (a) Each department shall make a presentation pursuant to
- 2 the provisions of this article, to the Joint Standing Commit-

tee and the committee during the first interim meeting after the regular session of the year in which the department is to be reviewed pursuant to the schedule set forth in subsection (b) of this section.

(b) An agency review shall be performed on one or more agencies under the purview of each department at least once every six years, commencing as follows:

(1) 2008, the Department of Administration;

(2) 2009, the Department of Education and the Arts, and the Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;

(3) 2010, the Department of Revenue and the Department of Commerce;

(4) 2011, the Department of Environmental Protection and the Department of Military Affairs and Public Safety;

(5) 2012, the Department of Health and Human Resources, including the Bureau of Senior Services; ~~and~~

(6) 2013, the Department of Transportation; and

(7) 2016, the Department of Veteran's Assistance.

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE

BRANCH OF STATE GOVERNMENT.

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-2. Executive departments created; offices of secretary created.

1 (a) There are created, within the executive branch of the
2 state government, the following departments:

3 (1) Department of Administration;

4 (2) Department of Education and the Arts;

5 (3) Department of Environmental Protection;

6 (4) Department of Health and Human Resources;

7 (5) Department of Military Affairs and Public Safety;

8 (6) Department of Revenue;

9 (7) Department of Transportation; ~~and~~

10 (8) Department of Commerce; and

11 (9) Effective July 1, 2011, Department of Veteran's Assis-
12 tance.

13 (b) Each department will be headed by a secretary ap-
14 pointed by the Governor with the advice and consent of the
15 Senate. Each secretary serves at the will and pleasure of the
16 Governor.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-1. Transfer and incorporation of agencies and boards; funds.

1 (a) The following agencies and boards, including all of the
2 allied, advisory, affiliated or related entities and funds

3 associated with any agency or board, are incorporated in and
4 administered as a part of the Department of Administration:

5 (1) Building Commission provided in article six, chapter
6 five of this code;

7 (2) Public Employees Insurance Agency provided in article
8 sixteen, chapter five of this code;

9 (3) Governor's Mansion Advisory Committee provided in
10 article five, chapter five-a of this code;

11 (4) Commission on Uniform State Laws provided in article
12 one-a, chapter twenty-nine of this code;

13 (5) West Virginia Public Employees Grievance Board
14 provided in article three, chapter six-c of this code;

15 (6) Board of Risk and Insurance Management provided in
16 article twelve, chapter twenty-nine of this code;

17 (7) Boundary Commission provided in article twenty-three,
18 chapter twenty-nine of this code;

19 (8) Public Defender Services provided in article
20 twenty-one, chapter twenty-nine of this code;

21 (9) Division of Personnel provided in article six, chapter
22 twenty-nine of this code;

23 (10) The West Virginia Ethics Commission provided in
24 article two, chapter six-b of this code;

25 (11) Consolidated Public Retirement Board provided in
26 article ten-d, chapter five of this code; and

27 (12) Real Estate Division provided in article ten, chapter
28 five-a of this code.

29 (b) The following agencies and boards, including all of the
30 allied, advisory, affiliated or related entities and funds
31 associated with any agency or board, are incorporated in and
32 administered as a part of the Department of Commerce:

33 (1) Division of Labor provided in article one, chapter
34 twenty-one of this code, which includes:

35 (A) Occupational Safety and Health Review Commission
36 provided in article three-a, chapter twenty-one of this code;
37 and

38 (B) Board of Manufactured Housing Construction and
39 Safety provided in article nine, chapter twenty-one of this
40 code;

41 (2) Office of Miners' Health, Safety and Training provided
42 in article one, chapter twenty-two-a of this code. The
43 following boards are transferred to the Office of Miners'
44 Health, Safety and Training for purposes of administrative
45 support and liaison with the office of the Governor:

46 (A) Board of Coal Mine Health and Safety and Coal Mine
47 Safety and Technical Review Committee provided in article
48 six, chapter twenty-two-a of this code;

49 (B) Board of Miner Training, Education and Certification
50 provided in article seven, chapter twenty-two-a of this code;
51 and

52 (C) Mine Inspectors' Examining Board provided in article
53 nine, chapter twenty-two-a of this code;

54 (3) The West Virginia Development Office ~~which includes~~
55 ~~the Division of Tourism and the Tourism Commission~~
56 provided in article two, chapter five-b of this code;

57 (4) Division of Natural Resources and Natural Resources
58 Commission provided in article one, chapter twenty of this
59 code;

60 (5) Division of Forestry provided in article one-a, chapter
61 nineteen of this code;

62 (6) Geological and Economic Survey provided in article
63 two, chapter twenty-nine of this code; and

64 (7) Workforce West Virginia provided in chapter
65 twenty-one-a of this code, which includes:

66 (A) Division of Unemployment Compensation;

67 (B) Division of Employment ~~Services~~ Service;

68 (C) Division of Workforce Development; and

69 (D) Division of Research, Information and Analysis; ~~and~~

70 (8) Division of Energy provided in article two-f, chapter

71 five-b of this code; and

72 (9) Division of Tourism and the Tourism Commission

73 provided in article two, chapter five-b of this code.

74 (c) The Economic Development Authority provided in

75 article fifteen, chapter thirty-one of this code is continued as

76 an independent agency within the executive branch.

77 (d) The Water Development Authority and the Water

78 Development Authority Board provided in article one,

79 chapter twenty-two-c of this code is continued as an inde-

80 pendent agency within the executive branch.

81 (e) The following agencies and boards, including all of the

82 allied, advisory and affiliated entities, are transferred to the

83 Department of Environmental Protection for purposes of

84 administrative support and liaison with the office of the

85 Governor:

86 (1) Air Quality Board provided in article two, chapter

87 twenty-two-b of this code;

88 (2) Solid Waste Management Board provided in article

89 three, chapter twenty-two-c of this code;

90 (3) Environmental Quality Board, or its successor board,
91 provided in article three, chapter twenty-two-b of this code;

92 (4) Surface Mine Board provided in article four, chapter
93 twenty-two-b of this code;

94 (5) Oil and Gas Inspectors' Examining Board provided in
95 article seven, chapter twenty-two-c of this code;

96 (6) Shallow Gas Well Review Board provided in article
97 eight, chapter twenty-two-c of this code; and

98 (7) Oil and Gas Conservation Commission provided in
99 article nine, chapter twenty-two-c of this code.

100 (f) The following agencies and boards, including all of the
101 allied, advisory, affiliated or related entities and funds
102 associated with any agency or board, are incorporated in and
103 administered as a part of the Department of Education and
104 the Arts:

105 (1) Library Commission provided in article one, chapter ten
106 of this code;

107 (2) Educational Broadcasting Authority provided in article
108 five, chapter ten of this code;

109 (3) Division of Culture and History provided in article one,
110 chapter twenty-nine of this code; and

111 (4) Division of Rehabilitation Services provided in ~~section~~
112 ~~two~~, article ten-a, chapter eighteen of this code.

113 (g) The following agencies and boards, including all of the
114 allied, advisory, affiliated or related entities and funds
115 associated with any agency or board, are incorporated in and
116 administered as a part of the Department of Health and
117 Human Resources:

118 (1) Human Rights Commission provided in article eleven,
119 chapter five of this code;

120 (2) Division of Human Services provided in article two,
121 chapter nine of this code;

122 (3) Bureau for Public Health provided in article one,
123 chapter sixteen of this code;

124 (4) Office of Emergency Medical Services and Emergency
125 Medical Service Advisory Council provided in article four-c,
126 chapter sixteen of this code;

127 (5) Health Care Authority provided in article
128 twenty-nine-b, chapter sixteen of this code;

129 (6) Commission on Mental Retardation provided in article
130 fifteen, chapter twenty-nine of this code;

131 (7) Women's Commission provided in article twenty,
132 chapter twenty-nine of this code; and

133 (8) The Child Support Enforcement Division provided in
134 chapter forty-eight of this code.

135 (h) The following agencies and boards, including all of the
136 allied, advisory, affiliated or related entities and funds
137 associated with any agency or board, are incorporated in and
138 administered as a part of the Department of Military Affairs
139 and Public Safety:

140 (1) Adjutant General's Department provided in article
141 one-a, chapter fifteen of this code;

142 (2) Armory Board provided in article six, chapter fifteen of
143 this code;

144 (3) Military Awards Board provided in article one-g,
145 chapter fifteen of this code;

146 (4) West Virginia State Police provided in article two,
147 chapter fifteen of this code;

148 (5) Division of Homeland Security and Emergency Man-
149 agement and Disaster Recovery Board provided in article
150 five, chapter fifteen of this code and Emergency Response
151 Commission provided in article five-a of said chapter;

152 (6) Sheriffs' Bureau provided in article eight, chapter
153 fifteen of this code;

154 (7) Division of Justice and Community Services provided
155 in article nine a, chapter fifteen of this code;

156 (8) Division of Corrections provided in chapter twenty-five
157 of this code;

158 (9) Fire Commission provided in article three, chapter
159 twenty-nine of this code;

160 (10) Regional Jail and Correctional Facility Authority
161 provided in article twenty, chapter thirty-one of this code;

162 (11) Board of Probation and Parole provided in article
163 twelve, chapter sixty-two of this code. ~~and~~

164 ~~(12) Division of Veterans' Affairs and Veterans' Council~~
165 ~~provided in article one, chapter nine-a of this code.~~

166 (i) The following agencies and boards, including all of the
167 allied, advisory, affiliated or related entities and funds
168 associated with any agency or board, are incorporated in and
169 administered as a part of the Department of Revenue:

170 (1) Tax Division provided in ~~article one~~, chapter eleven of
171 this code;

172 (2) Racing Commission provided in article twenty-three,
173 chapter nineteen of this code;

174 (3) Lottery Commission and position of Lottery Director
175 provided in article twenty-two, chapter twenty-nine of this
176 code;

177 (4) ~~Agency of~~ Insurance Commissioner provided in article
178 two, chapter thirty-three of this code;

179 (5) ~~Office of~~ West Virginia Alcohol Beverage Control
180 Commissioner provided in article sixteen, chapter eleven of
181 this code and article two, chapter sixty of this code;

182 (6) Board of Banking and Financial Institutions provided
183 in article three, chapter thirty-one-a of this code;

184 (7) Lending and Credit Rate Board provided in chapter
185 forty-seven-a of this code;

186 (8) Division of Banking provided in article two, chapter
187 thirty-one-a of this code;

188 (9) The State Budget Office provided in article two of this
189 chapter;

190 (10) The Municipal Bond Commission provided in article
191 three, chapter thirteen of this code;

192 (11) The Office of Tax Appeals provided in article ten-a,
193 chapter eleven of this code; and

194 (12) The State Athletic Commission provided in article
195 five-a, chapter twenty-nine of this code.

196 (j) The following agencies and boards, including all of the
197 allied, advisory, affiliated or related entities and funds

198 associated with any agency or board, are incorporated in and
199 administered as a part of the Department of Transportation:

200 (1) Division of Highways provided in article two-a, chapter
201 seventeen of this code;

202 (2) Parkways, Economic Development and Tourism
203 Authority provided in article sixteen-a, chapter seventeen of
204 this code;

205 (3) Division of Motor Vehicles provided in article two,
206 chapter seventeen-a of this code;

207 (4) Driver's Licensing Advisory Board provided in article
208 two, chapter seventeen-b of this code;

209 (5) Aeronautics Commission provided in article two-a,
210 chapter twenty-nine of this code;

211 (6) State Rail Authority provided in article eighteen,
212 chapter twenty-nine of this code; and

213 (7) Public Port Authority provided in article sixteen-b,
214 chapter seventeen of this code.

215 (k) The Veterans' Council provided in article one, chapter
216 nine-a of this code, including all of the allied, advisory,
217 affiliated or related entities and funds associated with it is,
218 incorporated in and administered as part of the Department
219 of Veteran's Assistance.

220 ~~(k)~~ (l) Except for powers, authority and duties that have
221 been delegated to the secretaries of the departments by the
222 provisions of section two of this article, the position of
223 administrator and the powers, authority and duties of each
224 administrator and agency are not affected by the enactment
225 of this chapter.

226 ~~(h)~~ (m) Except for powers, authority and duties that have
227 been delegated to the secretaries of the departments by the
228 provisions of section two of this article, the existence,
229 powers, authority and duties of boards and the membership,
230 terms and qualifications of members of the boards are not
231 affected by the enactment of this chapter. All boards that are
232 appellate bodies or are independent decision makers shall
233 not have their appellate or independent decision-making
234 status affected by the enactment of this chapter.

235 ~~(m)~~ (n) Any department previously transferred to and
236 incorporated in a department by prior enactment of this
237 section means a division of the appropriate department.
238 Wherever reference is made to any department transferred to
239 and incorporated in a department created in section two,
240 article one of this chapter, the reference means a division of
241 the appropriate department and any reference to a division

242 of a department so transferred and incorporated means a
243 section of the appropriate division of the department.

244 ~~(n)~~ (o) When an agency, board or commission is transferred
245 under a bureau or agency other than a department headed by
246 a secretary pursuant to this section, that transfer is solely for
247 purposes of administrative support and liaison with the
248 Office of the Governor, a department secretary or a bureau.
249 Nothing in this section extends the powers of department
250 secretaries under section two of this article to any person
251 other than a department secretary and nothing limits or
252 abridges the statutory powers and duties of statutory
253 commissioners or officers pursuant to this code.

CHAPTER 6. GENERAL PROVISIONS

RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of such officers.

1 (a) Each of the following appointive state officers named in
2 this subsection shall be appointed by the Governor, by and
3 with the advice and consent of the Senate. Each of the
4 appointive state officers serves at the will and pleasure of the
5 Governor for the term for which the Governor was elected

6 and until the respective state officers' successors have been
7 appointed and qualified. Each of the appointive state officers
8 are subject to the existing qualifications for holding each
9 respective office and each has and is hereby granted all of
10 the powers and authority and shall perform all of the
11 functions and services heretofore vested in and performed by
12 virtue of existing law respecting each office.

13 ~~Prior to July 1, two thousand six, each such named ap-~~
14 ~~pointive state officer shall continue to receive the annual~~
15 ~~salaries they were receiving as of the effective date of the~~
16 ~~enactment of this section in two thousand six and thereafter,~~
17 ~~notwithstanding any other provision of this code to the~~
18 ~~contrary,~~ The annual salary of each named appointive state
19 officer ~~shall be~~ is as follows:

20 Commissioner, Division of Highways, \$92,500; Commis-
21 sioner, Division of Corrections, \$80,000; Director, Division of
22 Natural Resources, \$75,000; Superintendent, State Police,
23 \$85,000; Commissioner, Division of Banking, \$75,000;
24 Commissioner, Division of Culture and History, \$65,000;
25 Commissioner, Alcohol Beverage Control Commission,
26 \$75,000; Commissioner, Division of Motor Vehicles, \$75,000;
27 Chairman, Health Care Authority, \$80,000; members, Health

28 Care Authority, \$70,000; Director, Human Rights Commis-
29 sion, \$55,000; Commissioner, Division of Labor, \$70,000;
30 ~~Director, Division of Veterans' Affairs, sixty-five thousand~~
31 ~~dollars~~; Chairperson, Board of Parole, \$55,000; members,
32 Board of Parole, \$50,000; members, Employment Security
33 Review Board, \$17,000; and Commissioner, ~~Bureau of~~
34 ~~Employment Programs~~ Workforce West Virginia, \$75,000.
35 Secretaries of the departments shall be paid an annual salary
36 as follows: Health and Human Resources, \$95,000; Transpor-
37 tation, \$95,000: *Provided*, That if the same person is serving
38 as both the Secretary of Transportation and the Commis-
39 sioner of Highways, he or she shall be paid \$120,000; Reve-
40 nue, \$95,000; Military Affairs and Public Safety, \$95,000;
41 Administration, \$95,000; Education and the Arts, \$95,000;
42 Commerce, \$95,000; Veterans' Assistance, \$95,000; and
43 Environmental Protection, \$95,000; *Provided, however*, That
44 any increase in the salary of any current appointive state
45 officer named in this subsection pursuant to the reenactment
46 of this subsection during the regular session of the Legisla-
47 ture in 2006 that exceeds \$5,000 shall be paid to such officer
48 or his or her successor beginning on July 1, 2006, in annual
49 increments of \$5,000 per fiscal year, up to the maximum

50 salary provided in this subsection: *Provided further*, That if
51 the same person is serving as both the Secretary of Transpor-
52 tation and the Commissioner of Highways, then the annual
53 increments of \$5,000 per fiscal year do not apply.

54 (b) Each of the state officers named in this subsection shall
55 continue to be appointed in the manner prescribed in this
56 code and, prior to July 1, 2006, each of the state officers
57 named in this subsection shall continue to receive the annual
58 salaries he or she was receiving as of the effective date of the
59 enactment of this section in 2006 and shall thereafter,
60 notwithstanding any other provision of this code to the
61 contrary, be paid an annual salary as follows:

62 Director, Board of Risk and Insurance Management,
63 \$80,000; Director, Division of Rehabilitation Services,
64 \$70,000; Director, Division of Personnel, \$70,000; Executive
65 Director, Educational Broadcasting Authority, \$75,000;
66 Secretary, Library Commission, \$72,000; Director, Geologi-
67 cal and Economic Survey, \$75,000; Executive Director,
68 prosecuting attorneys Institute, \$70,000; Executive Director,
69 Public Defender Services, \$70,000; Commissioner, Bureau of
70 Senior Services, \$75,000; Director, State Rail Authority,
71 \$65,000; Executive Director, Women's Commission, \$45,000;

72 Director, Hospital Finance Authority, \$35,000; member,
73 Racing Commission, \$12,000; Chairman, Public Service
74 Commission, \$85,000; members, Public Service Commission,
75 \$85,000; Director, Division of Forestry, \$75,000; Director,
76 Division of Juvenile Services, \$80,000; and Executive
77 Director, Regional Jail and Correctional Facility Authority,
78 \$80,000: *Provided*, That any increase in the salary of any
79 current appointive state officer named in this subsection
80 pursuant to the reenactment of this subsection during the
81 regular session of the Legislature in 2006 that exceeds \$5,000
82 shall be paid to such officer or his or her successor beginning
83 on July 1, 2006, in annual increments of \$5,000 per fiscal
84 year, up to the maximum salary provided in this subsection.

85 (c) Each of the following appointive state officers named in
86 this subsection shall be appointed by the Governor, by and
87 with the advice and consent of the Senate. Each of the
88 appointive state officers serves at the will and pleasure of the
89 Governor for the term for which the Governor was elected
90 and until the respective state officers' successors have been
91 appointed and qualified. Each of the appointive state officers
92 are subject to the existing qualifications for holding each
93 respective office and each has and is hereby granted all of

94 the powers and authority and shall perform all of the
95 functions and services heretofore vested in and performed by
96 virtue of existing law respecting each office.

97 Prior to July 1, 2006, each such named appointive state
98 officer shall continue to receive the annual salaries they were
99 receiving as of the effective date of the enactment of this
100 section in 2006 and thereafter, notwithstanding any other
101 provision of this code to the contrary, the annual salary of
102 each named appointive state officer shall be as follows:

103 Commissioner, State Tax Division, \$92,500; Insurance
104 Commissioner, ~~Insurance Commission~~, \$92,500; Director,
105 Lottery Commission, \$92,500; Director, Division of Home-
106 land Security and Emergency Management, \$65,000; and
107 Adjutant General, \$92,500.

108 (d) No increase in the salary of any appointive state officer
109 pursuant to this section ~~shall~~ may be paid until and unless
110 the appointive state officer has first filed with the State
111 Auditor and the Legislative Auditor a sworn statement, on a
112 form to be prescribed by the Attorney General, certifying
113 that his or her spending unit is in compliance with any
114 general law providing for a salary increase for his or her

115 employees. The Attorney General shall prepare and distrib-
116 ute the form to the affected spending units.

CHAPTER 9A. VETERANS' AFFAIRS.

ARTICLE 1. DIVISION OF VETERANS' AFFAIRS.

§9A-1-1. Creation and general purposes.

1 ~~A state agency to be known as~~ Effective July 1, 2011 ~~The~~
2 the West Virginia Division of Veterans' Affairs is ~~hereby~~
3 ~~created and established within the Department of Military~~
4 ~~Affairs and Public Safety~~ redesignated the Department of
5 Veteran's Assistance for the purpose of aiding, assisting,
6 counseling and advising, and looking after the rights and
7 interests of, all persons known as veterans who have served
8 in the Armed Forces of the United States in the Army, Navy,
9 Marine Corps, Air Force or Coast Guard as defined by the
10 laws of the United States and whose separation therefrom
11 has been other than dishonorable and who are citizens and
12 residents of this state, and the widows, dependents and
13 orphans, who are or have become citizens and residents of
14 this state, or all persons known as veterans who have served
15 in the Armed Forces of the United States in the Army, Navy,
16 Marine Corps, Air Force or Coast Guard as defined by the

17 laws of the United States and whose separation therefrom
18 has been other than dishonorable.

19 All references in this code to the West Virginia Division of
20 Veterans' Affairs and the Director of the West Virginia
21 Division of Veterans' Affairs shall mean the Department of
22 Veteran's Assistance and the Secretary of the Department of
23 Veteran's Assistance, respectively.

**§9A-1-1a. Department of Veterans' Assistance; office of Secretary
of Department of Veterans' Assistance.**

1 (a) The Secretary of the Department of Veterans' Assis-
2 tance is the chief executive officer of the department.
3 Subject to the requirements for the qualification and
4 appointment of the secretary provided in section four of this
5 article, the Governor shall appoint the secretary, by and with
6 the advice and consent of the Senate, for the term for which
7 the Governor is elected and until a successor shall have been
8 appointed and qualified. The Secretary shall serve at the will
9 and pleasure of the Governor. Any reference in this code to
10 the Division of Veterans Affairs or to the Department of
11 Veterans Affairs means the Department of Veterans' Assis-
12 tance. Any reference in this code to the Director of the
13 Division of Veterans Affairs means the Secretary of the

14 Department of Veterans' Assistance. As used in this chapter,
15 "secretary" means the Secretary of Veterans' Assistance and
16 "division" means Department of Veterans' Assistance.

17 (b) The department may receive federal funds.

18 (c) The secretary serves at the will and pleasure of the
19 Governor. The annual compensation of the secretary shall be
20 as specified in §6-7-2a of this code.

§9A-1-1b. Powers and duties of the secretary.

1 (a) The secretary controls and supervises the department
2 and is responsible for the work of each department employee.

3 (b) The secretary has the power and authority specified in
4 this article, in article two, chapter five-f of this code and as
5 otherwise specified in this chapter.

6 (c) The secretary may employ staff, assistants and employ-
7 ees as necessary for the efficient operation of the department.

8 (d) The secretary may delegate his or her powers and duties
9 to assistants and employees, but the secretary is responsible
10 for all official acts of the department.

§9A-1-1c. Reports by secretary.

1 The secretary shall report annually to the Governor
2 concerning the conduct of the department and make other
3 reports as the Governor may require.

§9A-1-1d. Right of appeal from interference with functioning of agency.

1 Any governmental entity may appeal to the Governor for
2 review upon a showing that application of the secretary's
3 authority may interfere with the successful functioning of
4 that entity. The Governor's decision controls on appeal.

§9A-1-2. Veterans' Council; administration of department.

1 There is continued the "Veterans' Council" consisting of
2 nine members who must be citizens and residents of this
3 state and who have served in and been honorably discharged
4 or separated under honorable conditions from the Armed
5 Forces of the United States and whose service was within a
6 time of war as defined by the laws of the United States,
7 either Public Law No. 2 — 73rd Congress, or Public Law No.
8 346 — 78th Congress, and amendments thereto. ~~At~~ Where
9 feasible, at least one member of the council must shall be a
10 veteran of World War II, at least one member of the council
11 must shall be a veteran of the Korean Conflict, at least two
12 members of the council must shall be veterans of the Viet-
13 nam era, at least one member must shall be a veteran of the
14 first Gulf War and at least one member must shall be a
15 veteran of the Afghanistan or Iraqi Conflicts. The members

16 of the veterans' council ~~must~~ shall be selected with special
17 reference to their ability and fitness to effectuate the
18 purposes of this article. If an eligible veteran is not available
19 or cannot be selected, members may be selected from those
20 veterans who served during a peacetime period provided all
21 other conditions are met.

22 A ~~director~~ secretary and such veterans' affairs officers,
23 assistants and employees as ~~may be deemed~~ the secretary
24 considers advisable, shall administer the West Virginia
25 ~~division of veterans' affairs~~ Department of Veteran's Assis-
26 tance.

**§9A-1-4. Duties and functions of Veterans' Council; appointment
of secretary; honoring academic achievement at
military academies.**

1 (a) It is the duty and function of the Veterans' Council to
2 advise the ~~director~~ secretary on the general administrative
3 policies of the ~~division~~ department, to select, at their first
4 meeting in each fiscal year commencing on July 1, a ~~chair-~~
5 ~~man~~ chairperson to serve one year, to advise the ~~director~~
6 secretary on rules as may be necessary, to advise the Gover-
7 nor and the Legislature with respect to legislation affecting
8 the interests of veterans, their widows, dependents and

9 orphans and to make annual reports to the Governor respect-
10 ing the service of the ~~division~~ department. The ~~director~~
11 secretary has the same eligibility and qualifications pre-
12 scribed for members of the Veterans' Council. ~~The Governor~~
13 ~~shall appoint a director for a term of six years, by and with~~
14 ~~the advice and consent of the Senate. Before making the~~
15 ~~appointment the Governor shall request the council of the~~
16 ~~West Virginia division of veterans' affairs to furnish a full~~
17 ~~and complete report concerning the qualifications and~~
18 ~~suitability of the proposed appointee. The director may only~~
19 ~~be removed by the Governor for cause, but shall have upon~~
20 ~~his or her own request an open hearing before the Governor~~
21 ~~on the complaints or charges lodged against him or her. The~~
22 ~~action of the Governor shall be final. The director~~ secretary
23 ~~ex officio shall be the executive secretary of the Veterans'~~
24 ~~Council, keep the minutes of each meeting and be in charge~~
25 ~~of~~ maintain all records of the ~~division~~ veterans' council.

26 (b) The Veterans' Council may annually honor each West
27 Virginian graduating from the U.S. Military Academy, the
28 U.S. Naval Academy, the U.S. Air Force Academy and the
29 U.S. Coast Guard Academy with the highest grade point
30 average by bestowing upon him or her the "West Augusta

31 Award.” The award shall be in a design and form established
32 by the council and include the famous Revolutionary War
33 phrase from which the award’s name is derived: “Once again
34 our brethren from West Augusta have answered the call to
35 duty.” The council shall coordinate the manner of recogni-
36 tion of the recipient at graduation ceremonies with each
37 academy.