

1 **H. B. 2756**

2
3 (By Delegates Perdue, Perry, Arvon, Border,
4 Ellington, Marshall, Moore, Morgan, Moyer,
5 Poore and Staggers)

6 [Introduced February 27, 2013; referred to the
7 Committee on Health and Human Resources then Finance.]

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9
10 A BILL to amend and reenact §5F-1-2 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §5F-2-1 of said
12 code, all relating to the reorganization of government;
13 removing the Bureau of Medical Services from under DHHR;
14 making Bureau of Medical Services its own department; and
15 moving the office of Healthy Lifestyle under the new
16 department.

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

18 That §5F-1-2 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted; and that §5F-2-1 of said code be amended
20 and reenacted, all to read as follows:

21 **ARTICLE 1. GENERAL PROVISIONS.**

22 **§5F-1-2. Executive departments created; offices of secretary**
23 **created.**

24 (a) There are created, within the executive branch of the

1 state government, the following departments:

2 (1) Department of Administration;

3 (2) Department of Education and the Arts;

4 (3) Department of Environmental Protection;

5 (4) Department of Health and Human Resources;

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

7 (6) Department of Revenue;

8 (7) Department of Transportation;

9 (8) Department of Commerce; and

10 (9) ~~Effective July 1, 2011,~~ Department of Veterans'
11 Assistance; and

12 (10) Department of Medicaid.

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

16 **ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

17 **§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

18 (a) The following agencies and boards, including all of the
19 allied, advisory, affiliated or related entities and funds
20 associated with any agency or board, are incorporated in and
21 administered as a part of the Department of Administration:

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

24 (2) Public Employees Insurance Agency provided in article

1 sixteen, chapter five of this code;

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

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

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

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

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

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

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

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

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

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

22 (b) The following agencies and boards, including all of the
23 allied, advisory, affiliated or related entities and funds
24 associated with any agency or board, are incorporated in and

1 administered as a part of the Department of Commerce:

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

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

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

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

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

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

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

20 (3) The West Virginia Development Office provided in article
21 two, chapter five-b of this code;

22 (4) Division of Natural Resources and Natural Resources
23 Commission provided in article one, chapter twenty of this code;

24 (5) Division of Forestry provided in article one-a, chapter

1 nineteen of this code;

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

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

6 (A) Division of Unemployment Compensation;

7 (B) Division of Employment Service;

8 (C) Division of Workforce Development; and

9 (D) Division of Research, Information and Analysis; and

10 (8) Division of Energy provided in article two-f, chapter
11 five-b of this code;

12 (9) Division of Tourism Commission provided in article two-h,
13 chapter five-b of this code.

14 (c) The Economic Development Authority provided in article
15 fifteen, chapter thirty-one of this code is continued as an
16 independent agency within the executive branch.

17 (d) The Water Development Authority and the Water Development
18 Authority Board provided in article one, chapter twenty-two-c of
19 this code is continued as an independent agency within the
20 executive branch.

21 (e) The following agencies and boards, including all of the
22 allied, advisory and affiliated entities, are transferred to the
23 Department of Environmental Protection for purposes of
24 administrative support and liaison with the Office of the Governor:

1 (1) Air Quality Board provided in article two, chapter
2 twenty-two-b of this code;

3 (2) Solid Waste Management Board provided in article three,
4 chapter twenty-two-c of this code;

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

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

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

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

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

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

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

21 (2) Division of Culture and History provided in article one,
22 chapter twenty-nine of this code;

23 (3) Division of Rehabilitation Services provided in section
24 two, article ten-a, chapter eighteen of this code.

1 (g) The Educational Broadcasting Authority provided in article
2 five, chapter ten of this code, is part of the Department of
3 Education and the Arts for purposes of administrative support and
4 liaison with the office of the Governor.

5 (h) The following agencies and boards, including all of the
6 allied, advisory, affiliated or related entities and funds
7 associated with any agency or board, are incorporated in and
8 administered as a part of the Department of Health and Human
9 Resources:

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

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

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

16 (4) Office of Emergency Medical Services and the Emergency
17 Medical Services Advisory Council provided in article four-c,
18 chapter sixteen of this code;

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

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

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

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

3 (i) The following agencies and boards, including all of the
4 allied, advisory, affiliated or related entities and funds
5 associated with any agency or board, are incorporated in and
6 administered as a part of the Department of Military Affairs and
7 Public Safety:

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

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

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

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

16 (5) Division of Homeland Security and Emergency Management and
17 Disaster Recovery Board provided in article five, chapter fifteen
18 of this code and Emergency Response Commission provided in article
19 five-a of said chapter;

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

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

24 (8) Division of Corrections provided in chapter twenty-five of

1 this code;

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

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

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

8 (j) The following agencies and boards, including all of the
9 allied, advisory, affiliated or related entities and funds
10 associated with any agency or board, are incorporated in and
11 administered as a part of the Department of Revenue:

12 (1) Tax Division provided in chapter eleven of this code;

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

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

17 (4) Insurance Commissioner provided in article two, chapter
18 thirty-three of this code;

19 (5) West Virginia Alcohol Beverage Control Commissioner
20 provided in article sixteen, chapter eleven of this code and
21 article two, chapter sixty of this code;

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

24 (7) Lending and Credit Rate Board provided in chapter

1 forty-seven-a of this code;

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

4 (9) The State Budget Office provided in article two of this
5 chapter;

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

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

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

12 (k) The following agencies and boards, including all of the
13 allied, advisory, affiliated or related entities and funds
14 associated with any agency or board, are incorporated in and
15 administered as a part of the Department of Transportation:

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

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

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

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

24 (5) Aeronautics Commission provided in article two-a, chapter

1 twenty-nine of this code;

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

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

6 (1) The Veterans' Council provided in article one, chapter
7 nine-a of this code, including all of the allied, advisory,
8 affiliated or related entities and funds associated with it is,
9 incorporated in and administered as part of the Department of
10 Veteran's Assistance.

11 (m) The following agencies and boards, including all of the
12 allied, advisory, affiliated or related entities and funds
13 associated with any agency or board, are incorporated in and
14 administered as a part of the Department of Medicaid:

15 (1) The Division of Medical Services;

16 (2) The office of Healthy Lifestyles provided in chapter five,
17 article one-e.

18 ~~(m)~~ (n) Except for powers, authority and duties that have been
19 delegated to the secretaries of the departments by the provisions
20 of section two of this article, the position of administrator and
21 the powers, authority and duties of each administrator and agency
22 are not affected by the enactment of this chapter.

23 ~~(n)~~ (o) Except for powers, authority and duties that have been
24 delegated to the secretaries of the departments by the provisions

1 of section two of this article, the existence, powers, authority
2 and duties of boards and the membership, terms and qualifications
3 of members of the boards are not affected by the enactment of this
4 chapter. All boards that are appellate bodies or are independent
5 decision makers shall not have their appellate or independent
6 decision-making status affected by the enactment of this chapter.

7 ~~(o)~~ (p) Any department previously transferred to and
8 incorporated in a department by prior enactment of this section
9 means a division of the appropriate department. Wherever reference
10 is made to any department transferred to and incorporated in a
11 department created in section two, article one of this chapter, the
12 reference means a division of the appropriate department and any
13 reference to a division of a department so transferred and
14 incorporated means a section of the appropriate division of the
15 department.

16 ~~(p)~~ (q) When an agency, board or commission is transferred
17 under a bureau or agency other than a department headed by a
18 secretary pursuant to this section, that transfer is solely for
19 purposes of administrative support and liaison with the Office of
20 the Governor, a department secretary or a bureau. Nothing in this
21 section extends the powers of department secretaries under section
22 two of this article to any person other than a department secretary
23 and nothing limits or abridges the statutory powers and duties of
24 statutory commissioners or officers pursuant to this code.

NOTE: The purpose of this bill is to reorganize the Department of Health and Human Resources by removing the Bureau of Medical Services from under DHHR and making the Bureau its own department, and moves the Office of Healthy Lifestyle under the new department.

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