

WEST VIRGINIA LEGISLATURE

2018 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 101

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Introduced May 20, 2018]

1 A BILL to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended, as
 2 contained in Chapter 105, Acts of the Legislature, Regular Session, 2018; and to amend
 3 and reenact §29-1-1 and §29-1-2 of said code, all relating to the Division of Culture and
 4 History continuing as the Department of Arts, Culture and History; providing that the
 5 Library Commission and the West Virginia Educational Broadcasting Authority shall be
 6 organized within the Department of Arts, Culture and History for administrative support;
 7 providing that any references throughout this code to the “Commissioner of Culture and
 8 History” means the “Curator of Arts, Culture and History” and any references throughout
 9 this code to the “Division of Culture and History” means the “Department of Arts, Culture
 10 and History”; organizing the Department of Arts, Culture and History as a separate
 11 independent agency within the Executive Branch; continuing the Commissioner of Culture
 12 and History as the Curator of Arts, Culture and History; specifying that the curator reports
 13 directly to Governor in furtherance of purposes and duties of the department; specifying
 14 the role of the curator; specifying that the curator is to represent the department as a full
 15 participating member in meetings of department secretaries convened by the Governor.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

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 allied, advisory, affiliated or
 2 related entities and funds associated with any agency or board, are incorporated in and
 3 administered as a part of the Department of Administration:

- 4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 5 (2) Governor’s Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

6 (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;

7 (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this
8 code;

9 (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;

10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;

11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;

12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;

13 (9) The West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;

14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and

15 (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

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

19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
21 this code; and

22 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
23 of this code.

24 (2) Office of Miners' Health, Safety and Training provided in §22A-1-1 *et seq.* of this code.

25 The following boards are transferred to the Office of Miners' Health, Safety and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

27 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
28 Committee provided in §22A-6-1 *et seq.* of this code;

29 (B) Board of Miner Training, Education and Certification provided in §22A-7-1 *et seq.* of
30 this code; and

31 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

32 (3) The West Virginia Development Office provided in §5B-2-1 *et seq.* of this code;

33 (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-
34 1 *et seq.* of this code;

35 (5) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

36 (6) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code; and

37 (7) Workforce West Virginia provided in chapter 21A of this code, which includes:

38 (A) Division of Unemployment Compensation;

39 (B) Division of Employment Service;

40 (C) Division of Workforce Development; and

41 (D) Division of Research, Information and Analysis.

42 (8) Office of Energy, within the Development Office, provided in §5B-2F-1 *et seq.* of this
43 code.

44 (9) West Virginia Tourism Office and Tourism Commission provided in §5B-2I-1 *et seq.* of
45 this code; and

46 ~~(10) Division of Culture and History provided in §29-1-1 *et seq.* of this code; and~~

47 ~~(11) (10) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.~~

48 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is
49 continued as an independent agency within the executive branch.

50 (d) The Water Development Authority and the Water Development Authority Board
51 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the
52 executive branch.

53 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
54 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each
55 continued as separate independent agencies within the ~~executive branch~~ Department of Arts,
56 Culture and History, which shall provide administrative support for both entities.

57 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is

58 continued as a separate independent agency within the Executive Branch as the Department of
59 Arts, Culture and History. All references throughout this code to the “Division of Culture and
60 History” means the “Department of Arts, Culture and History.”

61 ~~(f)~~ (g) The following agencies and boards, including all of the allied, advisory, and affiliated
62 entities, are transferred to the Department of Environmental Protection for purposes of
63 administrative support and liaison with the Office of the Governor:

64 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

65 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

66 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of
67 this code;

68 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

69 (5) Oil and Gas Inspectors’ Examining Board provided in §22C-7-1 *et seq.* of this code;

70 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

71 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

72 ~~(g)~~ (h) The following agencies and boards, including all of the allied, advisory, affiliated, or
73 related entities and funds associated with any agency or board, are incorporated in and
74 administered as a part of the Department of Health and Human Resources:

75 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

76 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

77 (3) Office of Emergency Medical Services and the Emergency Medical Service Advisory
78 Council provided in §16-4C-1 *et seq.* of this code;

79 (4) Health Care Authority provided in §16-29B *et seq.* of this code;

80 (5) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this code;

81 (6) Women’s Commission provided in §29-20-1 *et seq.* of this code; and

82 (7) Bureau for Child Support Enforcement provided in chapter 48 of this code.

83 ~~(h)~~ (i) The following agencies and boards, including all of the allied, advisory, affiliated, or

84 related entities and funds associated with any agency or board, are incorporated in and
85 administered as a part of the Department of Military Affairs and Public Safety:

86 (1) Adjutant General's Department provided in §15-1A-1 *et seq.* of this code;

87 (2) State Armory Board provided in §15-6-1 *et seq.* of this code;

88 (3) Military Awards Board provided in §15-1G-1 *et seq.* of this code;

89 (4) West Virginia State Police provided in §15-2-1 *et seq.* of this code;

90 (5) Division of Homeland Security and Emergency Management and Disaster Recovery
91 Board provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided
92 in §15-5A-1 *et seq.* of this code;

93 (6) Sheriffs' Bureau provided in §15-8-1 *et seq.* of this code;

94 (7) Division of Justice and Community Services provided in §15-9A-1 *et seq.* of this code;

95 (8) Division of Corrections provided in chapter 25 of this code;

96 (9) Fire Commission provided in §29-3-1 *et seq.* of this code;

97 (10) Regional Jail and Correctional Facility Authority provided in §31-20-1 *et seq.* of this
98 code; and

99 (11) Board of Probation and Parole provided in §62-12-1 *et seq.* of this code.

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

103 (1) Tax Division provided in chapter 11 of this code;

104 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;

105 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;

106 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

107 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
108 this code and §60-2-1 *et seq.* of this code;

109 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

110 (7) Lending and Credit Rate Board provided in chapter 47A of this code;

111 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

112 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

113 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

114 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and

115 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

116 ~~(j)~~ (k) The following agencies and boards, including all of the allied, advisory, affiliated, or
117 related entities and funds associated with any agency or board, are incorporated in and
118 administered as a part of the Department of Transportation:

119 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

120 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

121 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

122 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

123 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

124 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

125 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

126 ~~(k)~~ (l) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code,
127 including all of the allied, advisory, affiliated, or related entities and funds associated with it, is
128 incorporated in and administered as a part of the Department of Veterans' Assistance.

129 ~~(l)~~ (m) Except for powers, authority and duties that have been delegated to the secretaries
130 of the departments by the provisions of §5F-2-2 of this code, the position of administrator and the
131 powers, authority, and duties of each administrator and agency are not affected by the enactment
132 of this chapter.

133 ~~(m)~~ (n) Except for powers, authority and duties that have been delegated to the secretaries
134 of the departments by the provisions of §5F-2-2 of this code, the existence, powers, authority,
135 and duties of boards and the membership, terms and qualifications of members of the boards are

136 not affected by the enactment of this chapter. All boards that are appellate bodies or are
137 independent decision makers shall not have their appellate or independent decision-making
138 status affected by the enactment of this chapter.

139 ~~(n)~~ (o) Any department previously transferred to and incorporated in a department by prior
140 enactment of this section means a division of the appropriate department. Wherever reference is
141 made to any department transferred to and incorporated in a department created in §5F-1-2 of
142 this code, the reference means a division of the appropriate department and any reference to a
143 division of a department so transferred and incorporated means a section of the appropriate
144 division of the department.

145 ~~(e)~~ (p) When an agency, board, or commission is transferred under a bureau or agency
146 other than a department headed by a secretary pursuant to this section, that transfer is solely for
147 purposes of administrative support and liaison with the Office of the Governor, a department
148 secretary or a bureau. Nothing in this section extends the powers of department secretaries under
149 §5F-2-2 of this code to any person other than a department secretary and nothing limits or
150 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
151 code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. ~~DIVISION OF~~ DEPARTMENT OF ARTS, CULTURE AND HISTORY.

§29-1-1. Division of Culture and History continued as the Department of Arts, Culture and History; sections and commissions; purposes; definitions; effective date.

1 (a) The Division of Culture and History and the office of Commissioner of Culture and
2 History heretofore created are hereby continued as the Department of Arts, Culture and History.
3 The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the
4 ~~commissioner~~ Curator of Arts, Culture and History, who shall be the chief executive officer of the
5 ~~division~~ department and shall be paid an annual salary as provided in §6-7-2a of this code. The

6 ~~commissioner~~ curator so appointed shall have: (1) A bachelor's degree in one of the fine arts,
7 social sciences, library science or a related field; or (2) four years' experience in the administration
8 of museum management, public administration, arts, history or a related field.

9 (b) The ~~division~~ department shall consist of five sections as follows:

10 (1) The arts section;

11 (2) The archives and history section;

12 (3) The museums section;

13 (4) The historic preservation section; and

14 (5) The administrative section.

15 (c) The ~~division~~ department shall also consist of two citizens commissions as follows:

16 (1) A Commission on the Arts; and

17 (2) A Commission on Archives and History.

18 (d) The ~~commissioner~~ curator shall exercise control and supervision of the ~~division~~
19 department and shall be responsible for the projects, programs and actions of each of its sections.

20 The purpose and duty of the ~~division~~ department is to advance, foster and promote the creative
21 and performing arts and crafts, including both indoor and outdoor exhibits and performances; to
22 advance, foster, promote, identify, register, acquire, mark and care for historical, prehistorical,
23 archaeological and significant architectural sites, structures and objects in the state; to encourage
24 the promotion, preservation and development of significant sites, structures and objects through
25 the use of economic development activities such as loans, subsidies, grants and other incentives;
26 to coordinate all cultural, historical and artistic activities in state government and at state-owned
27 facilities; to acquire, preserve and classify books, documents, records and memorabilia of
28 historical interest or importance; and, in general, to do all things necessary or convenient to
29 preserve and advance the arts, culture and history of the state. In the furtherance of these
30 purposes and duties, the curator shall report directly to the Governor as a curator for both the
31 intrinsic and extrinsic value for individuals, communities and the economy of the arts, culture and

32 history in West Virginia. As such, the curator shall represent the Department of Arts, Culture and
 33 History as a full participating member in meetings of the secretaries of the departments created
 34 in §5F-1-2 of this code that are convened at the call of the Governor.

35 (e) The ~~division~~ department shall have jurisdiction and control and may set and collect
 36 fees for the use of all space in the building presently known as the West Virginia Science and
 37 Culture Center, including the deck and courtyards forming an integral part thereof; the building
 38 presently known as West Virginia Independence Hall in Wheeling, including all the grounds and
 39 appurtenances thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14
 40 of this code; and any other sites as may be transferred to or acquired by the ~~division~~ department.
 41 Notwithstanding any provision of this code to the contrary, including the provisions of article one,
 42 chapter five-b of this code, beginning on and after July 1, ~~1993~~ 2018, the ~~division~~ department
 43 shall have responsibility for, and control of, all visitor touring and visitor tour guide activities within
 44 the state Capitol Building at Charleston.

45 (f) For the purposes of this article, "commissioner" or "curator" means the ~~Commissioner~~
 46 ~~of Curator of Arts, Culture and History~~, and "division" or "department" means the ~~Division of~~
 47 Department of Arts, Culture and History. References throughout this code to the "Commissioner
 48 of Culture and History" mean the "Curator of Arts, Culture and History", and references throughout
 49 this code to the "Division of Culture and History" mean the "Department of Arts, Culture and
 50 History".

51 (g) Nothing in this article or any other provision of this code may be construed to mean
 52 that the Department of Arts, Culture and History is an executive department created pursuant to
 53 §5F-1-2 of this code, nor that the curator is the secretary of an executive department created
 54 pursuant to that section.

§29-1-2. General powers of ~~commissioner~~ curator.

1 The ~~commissioner~~ curator shall assign and allocate space in all facilities assigned to the
 2 ~~division~~ department and all space in the building presently known as the West Virginia science

3 and culture center, and any other buildings or sites under the control of the ~~commissioner~~ curator,
4 and may, in accordance with the provisions of chapter twenty-nine-a of this code, prescribe rules,
5 regulations and fees for the use and occupancy of said facilities, including tours.

6 The ~~commissioner~~ curator shall coordinate the operations and affairs of the sections and
7 commissions of the ~~division~~ department and assign each section or commission responsibilities
8 according to criteria the ~~commissioner~~ curator deems most efficient, productive and best
9 calculated to carry out the purposes of this article. The ~~commissioner~~ curator shall provide to the
10 fullest extent possible for centralization and coordination of the bookkeeping, personnel,
11 purchasing, printing, duplicating, binding and other services which can be efficiently combined.
12 The ~~commissioner~~ curator may establish such other sections for such purposes as he or she
13 deems necessary, and may appoint directors thereof. The ~~commissioner~~ curator may appoint a
14 director of the West Virginia science and culture center. The ~~commissioner~~ curator shall serve as
15 the state historic preservation officer. ~~and shall chair the capitol building commission~~

16 After consultation with the section directors and the commissions, the ~~commissioner~~
17 curator shall prepare a proposed ~~division~~ department budget for submission to the Governor for
18 each fiscal year.

19 No contract, agreement or undertaking may be entered into by any section of the ~~division~~
20 department which involves the expenditure of funds without the express written approval of the
21 ~~commissioner~~ curator as to fiscal responsibility.

22 The ~~commissioner~~ curator shall prepare and submit to the Governor an annual report in
23 accordance with the provisions of §5-1-20 of this code, which report shall include a detailed
24 account of the activities of each section and commission of the ~~division~~ department.

25 The ~~commissioner~~ curator shall employ all personnel for the sections, except for persons
26 in the professional positions established within the sections as provided in this article; and shall
27 supply support services to the commissions and to the Governor's Mansion Advisory Committee.

NOTE: The purpose of this bill is to reestablish the Division of Culture and History as the Department of Arts, Culture and History, which shall be a separate independent agency within the Executive Branch. The Commissioner of Culture and History will become the Curator of Arts, Culture and History. The Curator reports directly to the Governor and represents the department as a full participating member in meeting of the cabinet secretaries convened by the Governor. Also, the Library Commission and Educational Broadcast Authority are to be organized within the department for administrative support.

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