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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2912

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]



Passed April 14, 2001

In Effect from Passage

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FOR

H. B. 2912

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)

[BY REQUEST OF THE EXECUTIVE]

[Passed April, 14, 2001; in effect from passage.]

AN ACT to amend and reenact sections two, three, four, five, six, seven and eight, article two-a, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three, article sixteen, chapter five of said code; to amend and reenact section three, article one, chapter five-f of said code; to amend and reenact sections two and two-a, article seven, chapter six of said code; to amend and reenact section six, article four, chapter seven of said code; to amend and reenact section thirteen, article one, chapter ten of said code; to amend and reenact section one, article one, chapter eleven of said code; to amend and reenact section five, article twenty-nine-b, chapter sixteen of said code; to amend and reenact section four, article twenty-three, chapter nineteen of said code; to amend and reenact section five, article two, chapter twenty-one-a of said code; to amend and reenact section six, article one, chapter

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twenty-two of said code; to amend and reenact section three, article one, chapter twenty-two-a of said code; to amend and reenact section four, article one, chapter twenty-two-c of said code; to amend and reenact section three, article one, chapter twenty-four of said code; and to amend and reenact section four, article twenty, chapter thirty-one of said code, all relating to salary adjustments for certain public officials.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven and eight, article two-a, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three, article sixteen, chapter five of said code be amended and reenacted; that section three, article one, chapter five-f of said code be amended and reenacted; and that sections two and two-a, article seven, chapter six of said code be amended and reenacted; that section six, article four, chapter seven of said code be amended and reenacted; that section thirteen, article one, chapter ten of said code be amended and reenacted; that section one, article one, chapter eleven of said code be amended and reenacted; that section five, article twenty-nine-b, chapter sixteen of said code be amended and reenacted; that section four, article twenty-three, chapter nineteen of said code be amended and reenacted; that section five, article two, chapter twenty-one-a of said code be amended and reenacted; that section six, article one, chapter twenty-two of said code be amended and reenacted; that section three, article one, chapter twenty-two-a of said code be amended and reenacted; that section four, article one, chapter twenty-two-c of said code be amended and reenacted; that section three, article one, chapter twenty-four of said code be amended and reenacted; and that section four, article twenty, chapter thirty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 2A. COMPENSATION FOR AND EXPENSES OF MEMBERS OF THE LEGISLATURE.

PART II. COMPENSATION.

§4-2A-2. Basic compensation for services; proration.

1 (a) Each member of the Legislature shall receive as basic
2 compensation for his or her services the sum of fifteen thousand
3 dollars per calendar year. In addition to the basic compensation,
4 members shall receive the additional compensations as are
5 expressly provided for in sections three, four and five of this
6 article. Except for the increased basic compensation set forth in
7 this subsection, all other increased amounts or new amounts in
8 respect to the compensation or expenses of members of the
9 Legislature, set forth in the resolution of the citizens legislative
10 compensation commission, dated the eighth day of January, one
11 thousand nine hundred ninety-nine, and implemented in
12 sections two through eight of this article providing for new
13 amounts or amounts increased to new amounts greater than
14 those in force and effect on the first day of January, two
15 thousand, shall all become effective for calendar year two
16 thousand one, and each calendar year thereafter as prescribed in
17 this section.

18 (b) The basic compensation shall be payable twice a month
19 during each regular session of the Legislature, without regard
20 to any extension of the regular session. In the event of the
21 death, resignation or removal of a member of the Legislature
22 during a regular session of the Legislature and the appointment
23 and qualification of his or her successor during any regular
24 session, the basic compensation provided for in this section
25 shall be prorated between the original member and his or her
26 successor on the basis of the number of days served (including
27 Saturdays and Sundays) as a member of the Legislature by each
28 during the regular session of sixty calendar days.

29 (c) In the event of the death, resignation or removal of a
30 member of the Legislature and the appointment and qualifica-

31 tion of his or her successor subsequent to the regular session of
32 the Legislature held in the calendar year in which such succes-
33 sor was appointed and qualified, none of the basic compensa-
34 tion provided for in this section shall be paid to such successor.

**§4-2A-3. Compensation for members of the Legislature during
any extension of regular session or during extraor-
dinary session.**

1 Each member of the Legislature shall receive, in addition
2 to the basic compensation provided for in section two of this
3 article, additional compensation of one hundred fifty dollars per
4 day for each day of attendance in person upon any business of
5 the Senate or House of Delegates, as the case may be, on each
6 day upon which the Senate or House of Delegates is actually
7 called to order during each extension of regular session or
8 during extraordinary session of the Legislature. The additional
9 compensation shall be paid from time to time during any
10 extended session or extraordinary session, as prescribed by
11 rules established by the legislative auditor.

**§4-2A-4. Additional compensation for president of Senate,
speaker of House of Delegates, majority leaders,
minority leaders, certain committee chairs and
selected members of both houses.**

1 (a) In addition to the basic and additional compensation
2 provided for in sections two and three of this article, the
3 president of the Senate and the speaker of the House of Dele-
4 gates shall each receive additional compensation of:

5 (1) Fifty dollars per day for each day actually served during
6 any regular, extension of regular or extraordinary session as
7 presiding officer, including Saturdays and Sundays; and

8 (2) One hundred fifty dollars per day up to a maximum of
9 eighty days per calendar year for attending to legislative

10 business in their offices in the capitol building when the
11 Legislature is not in regular, extension of regular or extraordi-
12 nary session and interim committees are not meeting.

13 (b) In addition to the basic and additional compensation
14 provided for in sections two and three of this article, the
15 majority leaders and minority leaders of the Senate and of the
16 House of Delegates shall each receive additional compensation
17 of twenty-five dollars per day for each day actually served
18 during any regular, extension of regular or during extraordinary
19 session, including Saturdays and Sundays, as the selected
20 legislative leaders of their respective political parties.

21 (c) The presiding officer and majority and minority leader
22 compensation shall be paid from time to time during any such
23 session or interim period, as the case may be, as may be
24 prescribed by rules established by the legislative auditor.

25 (d) In addition to the basic and additional compensation
26 provided for in sections two and three of this article, the
27 chairpersons of the committees on finance and committees on
28 the judiciary of the respective houses and up to four additional
29 persons from each house, to be named by the presiding officer,
30 shall each receive an additional compensation of one hundred
31 fifty dollars per day up to a maximum of thirty days for
32 attending to legislative business in their offices in the capitol
33 building when the Legislature is not in regular, extended or
34 extraordinary session and interim committees are not meeting.

§4-2A-5. Interim compensation for members.

1 (a) In addition to the basic and any additional compensation
2 provided for in sections two, three and four of this article, each
3 member shall receive interim compensation of one hundred
4 fifty dollars per day for each day actually engaged in the
5 performance of interim duties as a member of any interim
6 committee between regular sessions of the Legislature: *Pro-*

7 *vided*, That the total additional interim compensation payable
8 to any member and his or her replacement, if any, on a commit-
9 tee or commission under the provisions of this subsection shall
10 not exceed the sum of four thousand five hundred dollars per
11 calendar year.

12 (b) In addition to the basic and any additional compensation
13 provided for in sections two, three and four of this article and
14 subsection (a) of this section, each member shall receive
15 interim compensation of one hundred fifty dollars per day for
16 each day actually engaged in the performance of legislative
17 duties at a meeting of any statutorily created legislative
18 committee which meets between regular sessions of the
19 Legislature and outside of regular interim meetings when
20 authorized by the committee cochairs and approved by the
21 president of the Senate and the speaker of the House of Dele-
22 gates, not to exceed fifteen days per calendar year.

PART III. EXPENSES.

§4-2A-6. Travel expenses.

1 (a) Each member of the Legislature is entitled to be
2 reimbursed, upon submission of an expense voucher, for
3 expenses incurred incident to travel in the performance of his
4 or her duties as a member of the Legislature or any committee
5 of the Legislature, whether the committee is operating under
6 general law or resolution, including, but not limited to, atten-
7 dance at party caucuses held in advance of the date of the
8 assembly of the Legislature in regular session in odd-numbered
9 years for the purpose of selecting candidates for officers of the
10 two houses, at a rate equal to that paid by the travel manage-
11 ment office of the department of administration for the most
12 direct usually traveled route, if travel is by private automobile,
13 or for actual transportation costs for direct route travel, if travel
14 is by public carrier, or for any combination of those means of

15 transportation actually used, plus the cost of necessary taxi or
16 limousine service, tolls and parking fees in connection with the
17 travel, but during any regular, extension of regular or extraordi-
18 nary session, travel expenses shall not be paid to any member
19 for more than one round trip to and from the seat of government
20 and to and from his or her place of residence for each week of
21 the session.

22 (b) In addition to the travel expense in subsection (a) of this
23 section, the president of the Senate and the speaker of the
24 House of Delegates are entitled to be reimbursed as provided in
25 subsection (a) of this section, upon submission of an expense
26 voucher, for expenses incurred incident to travel for up to a
27 maximum of eighty days per calendar year in connection with
28 their visits to the capitol building for business which is related
29 to their duties as presiding officers of the respective houses of
30 the Legislature, but which takes place when the Legislature is
31 not in regular, extension of regular or extraordinary session and
32 interim committees are not meeting.

33 (c) The rate paid for mileage pursuant to this section may
34 change from time to time in accordance with changes in the
35 reimbursement rates established by the travel management
36 office of the department of administration, or its successor
37 agency.

§4-2A-7. Reimbursement for expenses incurred during any session or interim assignment.

1 (a) Each member of the Legislature who does not commute
2 daily shall receive the sum of one hundred fifteen dollars per
3 day as per diem allowance in connection with any regular,
4 extended, extraordinary session, interim assignment or for any
5 member authorized by the presiding officer. Any member of the
6 Legislature who does commute daily shall receive the sum of
7 fifty-five dollars per day as the per diem allowance and, in

8 addition to the allowance, shall be reimbursed for overnight
9 commuting expenses at the mileage rate equal to the amount
10 paid by the travel management office of the department of
11 administration for the most direct usually traveled route, if
12 travel is by private automobile, or for actual transportation costs
13 for direct route travel, if travel is by public carrier, or for any
14 combination of the means of transportation actually used, plus
15 the costs of necessary taxi or limousine service, tolls and
16 parking fees in connection with the travel: *Provided*, That the
17 total of this per diem allowance plus travel expense for a daily
18 commuting member shall not exceed one hundred fifteen
19 dollars per day. The amount for mileage paid pursuant to this
20 subsection may change from time to time in accordance with
21 changes in the level of reimbursement by the travel manage-
22 ment office.

23 (b) The president of the Senate and the speaker of the
24 House of Delegates, the chairman of the house committee on
25 finance, the chairman of the senate committee on finance, the
26 chairman of the house committee on the judiciary, the chairman
27 of the senate committee on the judiciary, and up to four
28 additional persons from each house designated by the presiding
29 officer pursuant to section four of this article, shall be reim-
30 bursed for travel at the rate established in subsection (a) of this
31 section, and shall further receive the per diem allowance
32 established in the subsection in connection with their visits to
33 the capitol for business which is related to their duties as
34 officers at the times when the Legislature is not in regular,
35 extended or extraordinary session, and interim committees are
36 not meeting.

§4-2A-8. Out-of-state expenses.

1 In addition to reimbursement for travel expenses as
2 authorized in section six of this article, each member of the
3 Legislature traveling from West Virginia to an out-of-state

4 point or points and returning incident to the performance of his
 5 or her duties as a member of the Legislature or any committee
 6 of the Legislature, whether the committee is operating under
 7 general law or resolution, where the travel has been duly
 8 authorized, is entitled to be reimbursed, upon submission of an
 9 expense voucher for the travel, for all reasonable and necessary
 10 expenses actually incurred incident to the travel, but the total of
 11 any and all reimbursed expenses, exclusive of reimbursement
 12 for travel expenses, shall not under any circumstances exceed
 13 the actual cost of housing at the least expensive available single
 14 rate and meal and miscellaneous expenses of fifty-five dollars
 15 per day. A receipt for the amount paid for housing and for
 16 travel by any public transportation to and from West Virginia
 17 shall be submitted with the expense voucher, but a receipt is not
 18 required to be submitted with any expense voucher for meal and
 19 miscellaneous expenses.

**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 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

**§5-16-3. Public employees insurance agency continued; appoint-
 ment, qualification, compensation and duties of
 director of agency; employees; civil service coverage;
 director vested after specified date with powers of
 public employees insurance board; expiration of
 agency.**

1 (a) The public employees insurance agency is continued,
 2 and consists of the director, the finance board, the advisory
 3 board and any employees who may be authorized by law. The
 4 director shall be appointed by the governor, with the advice and
 5 consent of the Senate. He or she shall serve at the will and
 6 pleasure of the governor, unless earlier removed from office for

7 cause as provided by law. The director shall have at least three
8 years experience in health insurance administration prior to
9 appointment as director. The director shall receive actual
10 expenses incurred in the performance of official business. The
11 director shall employ such administrative, technical and clerical
12 employees that are required for the proper administration of the
13 insurance programs provided for in this article. The director
14 shall perform the duties that are required of him or her under
15 the provisions of this article and is the chief administrative
16 officer of the public employees insurance agency. The director
17 may employ a deputy director.

18 (b) All positions in the agency, except for the director, his
19 or her personal secretary, the deputy director and the chief
20 financial officer shall be included in the classified service of the
21 civil service system pursuant to article six, chapter twenty-nine
22 of this code. Any person required to be included in the classi-
23 fied service by the provisions of this subsection who was
24 employed in any of the positions included in this subsection on
25 or after the effective date of this article shall not be required to
26 take and pass qualifying or competitive examinations upon or
27 as a condition to being added to the classified service: *Pro-*
28 *vided*, That no person required to be included in the classified
29 service by the provisions of this subsection who was employed
30 in any of the positions included in this subsection as of the
31 effective date of this section shall be thereafter severed,
32 removed or terminated in his or her employment prior to his or
33 her entry into the classified service except for cause as if the
34 person had been in the classified service when severed, re-
35 moved or terminated.

36 (c) The director is responsible for the administration and
37 management of the public employees insurance agency as
38 provided for in this article and in connection with his or her
39 responsibility may make all rules necessary to effectuate the

40 provisions of this article. Nothing in section four or five of this
41 article limits the director's ability to manage on a day-to-day
42 basis the group insurance plans required or authorized by this
43 article, including, but not limited to, administrative contracting,
44 studies, analyses and audits, eligibility determinations, utiliza-
45 tion management provisions and incentives, provider negotia-
46 tions, provider contracting and payment, designation of covered
47 and noncovered services, offering of additional coverage
48 options or cost containment incentives, pursuit of coordination
49 of benefits and subrogation, or any other actions which would
50 serve to implement the plan or plans designed by the finance
51 board.

52 (d) The public employees insurance agency shall terminate
53 in the manner provided in article ten, chapter four of this code,
54 on the first day of July, two thousand one, unless extended by
55 legislation enacted before the termination date: *Provided*, That
56 the public employees insurance agency advisory board, created
57 in section six of this article, shall terminate in the manner
58 provided in article ten, chapter four of this code on the first day
59 of July, one thousand nine hundred ninety-six.

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

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-3. Oath; bond; compensation.

1 (a) Each person appointed to serve as a secretary shall take
2 the oath or affirmation prescribed by section five, article four
3 of the constitution, and the oath shall be certified by the person
4 who administers the same and filed in the office of the secretary
5 of state.

6 (b) Each person appointed shall give bond in the penalty of
7 twenty-five thousand dollars conditioned for the faithful

8 performance of the duties of the office. The bond shall be
9 approved by the attorney general as to form and by the governor
10 as to sufficiency. The surety of the bond may be a bonding or
11 surety company, in which case the premium shall be paid out of
12 the appropriation made for the administration of the depart-
13 ment.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2. Salaries of certain state officers.

1 (a) The salaries for each of the state constitutional officers
2 are as follows:

3 (1) The salary of the governor is ninety thousand dollars per
4 year;

5 (2) The salary of the attorney general is seventy-five
6 thousand dollars per year;

7 (3) The salary of the auditor is seventy thousand dollars per
8 year;

9 (4) The salary of the secretary of state is sixty-five thousand
10 dollars per year;

11 (5) The salary of the commissioner of agriculture is seventy
12 thousand dollars per year; and

13 (6) The salary of the state treasurer is seventy thousand
14 dollars per year.

15 (b) Beginning in the calendar year two thousand five, and
16 for each calendar year thereafter, salaries for each of the state
17 constitutional officers shall be as follows:

18 (1) The salary of the governor shall be ninety-five thousand
19 dollars per year;

20 (2) The salary of the attorney general shall be eighty
21 thousand dollars per year;

22 (3) The salary of the auditor shall be seventy-five thousand
23 dollars per year;

24 (4) The salary of the secretary of state shall be seventy
25 thousand dollars per year;

26 (5) The salary of the commissioner of agriculture shall be
27 seventy-five thousand dollars per year; and

28 (6) The salary of the state treasurer shall be seventy-five
29 thousand dollars per year.

**§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 with
3 the advice and consent of the Senate. Each of the appointive
4 state officers serves at the will and pleasure of the governor for
5 the term for which the governor was elected and until the
6 respective state officers' successors have been appointed and
7 qualified. Each of the appointive state officers are subject to the
8 existing qualifications for holding each respective office and
9 each has and is hereby granted all of the powers and authority
10 and shall perform all of the functions and services heretofore
11 vested in and performed by virtue of existing law respecting
12 each office.

13 Prior to the first day of July, two thousand one, each such
14 named appointive state officer shall continue to receive the
15 annual salaries they were receiving as of the effective date of

16 the enactment of this section in two thousand one, and thereaf-
17 ter, notwithstanding any other provision of this code to the
18 contrary, the annual salary of each named appointive state
19 officer shall be as follows:

20 Administrator, division of highways, ninety thousand
21 dollars; administrator, state tax division, sixty-five thousand
22 dollars; administrator, division of corrections, seventy-five
23 thousand dollars; administrator, division of natural resources,
24 seventy thousand dollars; superintendent, state police, seventy-
25 five thousand dollars; administrator, lottery division, seventy-
26 five thousand dollars; director, public employees insurance
27 agency, seventy-five thousand dollars; administrator, division
28 of banking, sixty thousand dollars; administrator, division of
29 insurance, sixty thousand dollars; administrator, division of
30 culture and history, fifty-five thousand dollars; administrator,
31 alcohol beverage control commission, seventy thousand dollars;
32 administrator, division of motor vehicles, seventy thousand
33 dollars; director, division of personnel, fifty-five thousand
34 dollars; adjutant general, seventy-five thousand dollars;
35 chairman, health care authority, seventy thousand dollars;
36 members, health care authority, sixty thousand dollars; director,
37 human rights commission, forty-five thousand dollars; adminis-
38 trator, division of labor, sixty thousand dollars; administrator,
39 division of veterans affairs, forty-five thousand dollars;
40 administrator, division of emergency services, forty-five
41 thousand dollars; members, board of parole, forty-five thousand
42 dollars; members, employment security review board, seven-
43 teen thousand dollars; members, workers' compensation appeal
44 board, seventeen thousand eight hundred dollars; administrator,
45 bureau of employment programs, seventy thousand dollars;
46 administrator, bureau of commerce, seventy thousand dollars;
47 administrator, bureau of environment, seventy thousand dollars;
48 director, office of miner's health, safety and training, sixty-five
49 thousand dollars. Secretaries of the departments shall be paid an
50 annual salary as follows: Health and human resources, ninety

51 thousand dollars; transportation, seventy-five thousand dollars;
52 tax and revenue, seventy-five thousand dollars; military affairs
53 and public safety, seventy-five thousand dollars; administration,
54 seventy-five thousand dollars; education and the arts, seventy-
55 five thousand dollars; environmental protection, seventy-five
56 thousand dollars.

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

65 Administrator, division of risk and insurance management,
66 fifty-five thousand dollars; director, division of rehabilitation
67 services, sixty thousand dollars; executive director, educational
68 broadcasting authority, sixty thousand dollars; secretary, library
69 commission, sixty-seven thousand dollars; director, geological
70 and economic survey, fifty-two thousand five hundred dollars;
71 executive director, prosecuting attorneys institute, sixty
72 thousand dollars; executive director, public defender services,
73 sixty thousand dollars; commissioner, bureau of senior services,
74 seventy thousand dollars; director, state rail authority, fifty-five
75 thousand dollars; executive secretary, women's commission,
76 thirty-one thousand dollars; director, hospital finance authority,
77 twenty-six thousand dollars; member, racing commission, five
78 thousand dollars; chairman, public service commission, seventy
79 thousand dollars; members, public service commission, seventy
80 thousand dollars.

81 (c) No increase in the salary of any appointive state officer
82 pursuant to this section shall be paid until and unless the
83 appointive state officer has first filed with the state auditor and

84 the legislative auditor a sworn statement, on a form to be
85 prescribed by the attorney general, certifying that his or her
86 spending unit is in compliance with any general law providing
87 for a salary increase for his or her employees. The attorney
88 general shall prepare and distribute the form to the affected
89 spending units.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-6. West Virginia prosecuting attorneys institute.

1 (a) There is continued the West Virginia prosecuting
2 attorneys institute, a public body whose membership shall
3 consist of the fifty-five elected county prosecuting attorneys in
4 the state. The institute shall meet at least once each calendar
5 year and the presence of twenty-eight of the fifty-five prosecu-
6 tors at any meeting constitutes a quorum for the conduct of the
7 institute's business.

8 (b) There is continued the executive council of the West
9 Virginia prosecuting attorneys institute which shall consist of
10 five prosecuting attorneys elected by the membership of the
11 West Virginia prosecuting attorneys institute at its annual
12 meeting and two persons appointed annually by the county
13 commissioner's association of West Virginia. The executive
14 council shall elect one member of the council to serve as
15 chairman of the institute for a term of one year without com-
16 pensation. The executive council shall serve as the regular
17 executive body of the institute.

18 (c) There is continued the position of executive director of
19 the West Virginia prosecuting attorneys institute to be em-
20 ployed by the executive council of the institute. The executive
21 director of the West Virginia prosecuting attorneys institute

22 shall serve at the will and pleasure of the executive council of
23 the institute. The executive director shall be licensed to practice
24 law in the state of West Virginia and shall devote full time to
25 his or her official duties and may not engage in the private
26 practice of law.

27 (d) The duties and responsibilities of the institute, as
28 implemented by and through its executive council and its
29 executive director, shall include the following:

30 (1) The provision for special prosecuting attorneys to
31 pursue a criminal matter in any county upon the request of a
32 circuit court judge of that county and upon the approval of the
33 executive council;

34 (2) The establishment and implementation of general and
35 specialized training programs for prosecuting attorneys and
36 their professional staffs;

37 (3) The provision of materials for prosecuting attorneys and
38 their professional staffs, including legal research, technical
39 assistance and technical and professional publications;

40 (4) The compilation and dissemination of information on
41 behalf of prosecuting attorneys and their professional staffs on
42 current developments and changes in the law and the adminis-
43 tration of criminal justice;

44 (5) The establishment and implementation of uniform
45 reporting procedures for prosecuting attorneys and their
46 professional staffs in order to maintain and to provide accurate
47 and timely data and information relative to criminal prosecuto-
48 rial matters;

49 (6) The acceptance and expenditure of, grants and gifts and
50 acceptance of services from any public or private source;

51 (7) The entering into of agreements and contracts with
52 public or private agencies or educational institutions;

53 (8) The identification of experts and other resources for use
54 by prosecutors in criminal matters;

55 (9) The recommendation to the Legislature or the supreme
56 court of appeals of the state of West Virginia on measures
57 required, or procedural rules to be promulgated, to make
58 uniform the processing of juvenile cases in the fifty-five
59 counties of the state; and

60 (10) The development of a written handbook for prosecu-
61 tors and their assistants to use which delineates relevant
62 information concerning the elements of various crimes in West
63 Virginia and other information the institute considers appropri-
64 ate.

65 (e) Each prosecuting attorney is subject to appointment by
66 the institute to serve as a special prosecuting attorney in any
67 county where the prosecutor for that county or his or her office
68 has been disqualified from participating in a particular criminal
69 case. The circuit judge of any county of this state, who disquali-
70 fies the prosecutor or his or her office from participating in a
71 particular criminal case in that county, shall seek the appoint-
72 ment by the institute of a special prosecuting attorney to
73 substitute for the disqualified prosecutor. The executive director
74 of the institute shall, upon written request to the institute by any
75 circuit judge as a result of disqualification of the prosecutor or
76 for other good cause shown, and upon approval of the executive
77 council, appoint a prosecuting attorney to serve as a special
78 prosecuting attorney. The special prosecuting attorney ap-
79 pointed shall serve without any further compensation other than
80 that paid to him or her by his or her county, except that he or
81 she is entitled to be reimbursed for his or her legitimate
82 expenses associated with travel, mileage and room and board

83 from the county to which he or she is appointed as a prosecutor.
 84 The county commission in which county he or she is special
 85 prosecutor is responsible for all expenses associated with the
 86 prosecution of the criminal action. No person who is serving as
 87 a prosecuting attorney or assistant prosecuting attorney of any
 88 county is required to take an additional oath when appointed to
 89 serve as a special prosecuting attorney.

90 (f) The executive director of the institute shall maintain an
 91 appointment list that shall include the names of all fifty-five
 92 prosecuting attorneys and that shall also include the names of
 93 any assistant prosecuting attorney who wishes to serve as a
 94 special prosecuting attorney upon the same terms and condi-
 95 tions as set forth in this section. The executive director of the
 96 institute, with the approval of the executive council, shall
 97 appoint special prosecuting attorneys from the appointment list
 98 for any particular matter giving due consideration to the
 99 proximity of the proposed special prosecuting attorney's home
 100 county to the county requesting a special prosecutor and giving
 101 due consideration to the expertise of the special prosecuting
 102 attorney.

103 (g) Each county commission shall pay, on a monthly basis,
 104 a special prosecution premium to the treasurer of the state for
 105 the funding of the West Virginia prosecuting attorneys institute.
 106 The monthly premiums shall be paid according to the following
 107 schedule:

108 **MONTHLY PREMIUMS**

109 Assessed Valuation of Property
 110 of All Classes in the County

111 Category	Minimum	Maximum	Premium
112 A	\$1,500,000,000	Unlimited	\$400
113 B	\$1,000,000,000	\$1,499,999,000	\$375

114	Category	Minimum	Maximum	Premium
115	C	\$ 800,000,000	\$ 999,999,000	\$350
116	D	\$ 700,000,000	\$ 799,999,000	\$325
117	E	\$ 600,000,000	\$ 699,999,000	\$300
118	F	\$ 500,000,000	\$ 599,999,000	\$250
119	G	\$ 400,000,000	\$ 499,999,000	\$200
120	H	\$ 300,000,000	\$ 399,999,000	\$150
121	I	\$ 200,000,000	\$ 299,999,000	\$100
122	J	-0-	\$ 199,999,000	\$ 50

123 Upon receipt of a premium, grant, reimbursement or other
 124 funding source, excluding federal funds as provided in article
 125 two, chapter four of this code, the treasurer shall deposit the
 126 funds into a special revenue fund to be known as the “West
 127 Virginia prosecuting attorneys institute fund”. All costs of
 128 operating the West Virginia prosecuting attorneys institute shall
 129 be paid from the West Virginia prosecuting attorneys institute
 130 fund upon proper authorization by the executive council or by
 131 the executive director of the institute and subject to annual
 132 appropriation by the Legislature of the amounts contained
 133 within the fund.

134 (h) The West Virginia prosecuting attorneys institute shall
 135 continue to exist until the first day of July, two thousand five,
 136 unless continued by an act of the Legislature. The institute shall
 137 annually by the first day of the regular legislative session
 138 provide the joint committee on government and finance with a
 139 report setting forth the activities of the institute and suggestions
 140 for legislative action.

141 (i) Neither the institute nor its employees acting in their
 142 employment capacity shall engage in activities before govern-
 143 mental bodies which advocate positions on issues other than
 144 those issues consistent with the duties of the institute set forth
 145 in subsection (d) of this section.

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC
RECREATION; ATHLETIC ESTABLISHMENTS;
MONUMENTS AND MEMORIALS;
ROSTER OF SERVICEMEN;
EDUCATIONAL BROADCASTING AUTHORITY.**

ARTICLE 1. PUBLIC LIBRARIES.

§10-1-13. State library commission — Officers.

1 (a) The officers of the commission are a chairman, elected
2 from the members of the commission, for a term of one year,
3 and a secretary, who shall be a person trained in modern library
4 methods, not a member of the commission. The secretary shall
5 be appointed by the commission and shall serve at the will of
6 the commission. The commission may establish headquarters
7 or maintain its office at any point in the state determines.

8 (b) The secretary shall keep a record of the proceedings of
9 the commission, have charge of its work in organizing new
10 libraries and improving those already established, supervise the
11 work of the traveling libraries, and in general perform such
12 duties as may from time to time be assigned to him or her by
13 the commission.

CHAPTER 11. TAXATION.

ARTICLE 1. SUPERVISION.

**§11-1-1. Office of tax commissioner continued and designated the
state tax division; appointment, term, oath and bond
of commissioner; powers and duties generally; sec-
tions of division; assistant tax commissioner; assistant
attorneys general to assist commissioner.**

1 (a) The office of the tax commissioner is continued in all
2 respects as previously constituted in the state government, but

3 is hereby designated as the state tax division of the department
4 of tax and revenue.

5 (b) The tax commissioner is the chief executive officer of
6 the state tax division and shall be appointed by the governor, by
7 and with the advice and consent of the Senate, to serve at the
8 will and pleasure of the governor for the term for which the
9 governor was elected and until a successor has been appointed
10 and has qualified.

11 (c) The tax commissioner, before entering upon the duties
12 of office, shall take the oath or affirmation prescribed by
13 section 5, article IV of the constitution. The tax commissioner
14 shall give bond with good security, to be approved by the
15 governor, in the penalty of fifteen thousand dollars. The tax
16 commissioner shall be repaid his or her actual disbursements
17 for traveling expenses. The tax commissioner shall be provided
18 with an office in the capitol and with furniture, office equip-
19 ment and any necessary clerical assistance.

20 (d) The tax commissioner has control and supervision of the
21 state tax division and is responsible for the work of each of its
22 sections or other subunits. Each section or bureau shall be
23 headed by a director appointed by the tax commissioner and
24 who is responsible to the tax commissioner for the work of his
25 or her section or bureau. The tax commissioner may create any
26 sections or bureaus and employ any necessary staff or employ-
27 ees to administer the state tax laws for which the tax commis-
28 sioner or tax division is responsible, within the amount of
29 expenditures appropriated for operation of the tax division by
30 the Legislature. The tax commissioner has authority to appoint
31 an assistant tax commissioner who shall be his or her principal
32 assistant. The powers and duties vested in the tax commissioner
33 by this chapter and any other provisions of law may be dele-
34 gated by the tax commissioner to the assistant or other employ-

35 ees, but the tax commissioner is responsible for all official acts
36 of his or her delegates.

37 (e) The tax commissioner, if he or she considers the action
38 necessary, may request the attorney general to appoint assistant
39 attorneys general who shall perform duties as required by the
40 tax commissioner. The attorney general, in pursuance of the
41 request, may select and appoint assistant attorneys general, with
42 the consent of the tax commissioner, to serve during the will
43 and pleasure of the attorney general, and the assistants shall be
44 paid out of any funds made available for that purpose by the
45 Legislature to the state tax division.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-5. West Virginia health care authority; composition of the board; qualifications; terms; oath; expenses of members; vacancies; appointment of chairman, and meetings of the board.

1 The “West Virginia Health Care Cost Review Authority” is
2 continued as an autonomous division of the department of
3 health and human resources and shall be known as the “West
4 Virginia Health Care Authority”, hereinafter referred to as the
5 board. Any references in this code to the West Virginia health
6 care cost review authority means the West Virginia health care
7 authority.

8 (a) The board shall consist of three members, appointed by
9 the governor, with the advice and consent of the Senate. The
10 board members shall be citizens and residents of this state. No
11 more than two of the board members may be members of the
12 same political party. One board member shall have a back-
13 ground in health care finance or economics, one board member
14 shall have previous employment experience in human services,

15 business administration or substantially related fields and one
16 board member shall be a consumer of health services with a
17 demonstrated interest in health care issues.

18 (b) Each board member shall, before entering upon the
19 duties of his or her office, take and subscribe to the oath
20 provided by section five, article IV of the constitution of the
21 state of West Virginia, which oath shall be filed in the office of
22 the secretary of state. The governor shall designate one of the
23 board members to serve as chairman at the governor's will and
24 pleasure. The chairman shall be the chief administrative officer
25 of the board. The governor may remove any board member only
26 for incompetency, neglect of duty, gross immorality, malfea-
27 sance in office or violation of the provisions of this article.
28 Appointments are for terms of six years, except that an appoint-
29 ment to fill a vacancy shall be for the unexpired term only.

30 (c) No person while in the employ of, or holding any
31 official relation to, any hospital or health care provider subject
32 to the provisions of this article, or who has any pecuniary
33 interest in any hospital or health care provider, may serve as a
34 member of the board or as an employee of the board. Nor may
35 any board member be a candidate for or hold public office or be
36 a member of any political committee while acting as a board
37 member; nor may any board member or employee of the board
38 receive anything of value, either directly or indirectly, from any
39 third-party payor or health care provider. If any of the board
40 members become a candidate for any public office or for
41 membership on any political committee, the governor shall
42 remove the board member from the board and shall appoint a
43 new board member to fill the vacancy created. No board
44 member or former board member may accept employment with
45 any hospital or health care provider subject to the jurisdiction
46 of the board in violation of the West Virginia governmental
47 ethics act, chapter six-b of this code: *Provided*, That the act

48 shall not apply to employment accepted after termination of the
49 board.

50 (d) The concurrent judgment of two of the board members
51 when in session as the board shall be considered the action of
52 the board. A vacancy in the board shall not affect the right or
53 duty of the remaining board members to function as a board.

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE AND DOG RACING.

§19-23-4. West Virginia racing commission continued as a public corporation; composition; terms; vacancies; qualifications, expenses of members; principal office; meetings; election of officers; quorum; inspection of records; annual report.

1 (a) The “West Virginia racing commission,” is continued
2 in existence as a public corporation and, as such, may contract
3 and be contracted with, plead and be impleaded, sue and be
4 sued and have and use a common seal.

5 (b) The racing commission shall consist of three members,
6 not more than two of whom shall belong to the same political
7 party, to be appointed by the governor by and with the advice
8 and consent of the Senate. The term of office for the members
9 of the racing commission is four years, and until their succes-
10 sors have been appointed and have qualified, and members of
11 the racing commission may serve any number of successive
12 terms. The members of the racing commission in office on the
13 effective date of the amendment and reenactment of this section
14 in two thousand one shall, unless removed by the governor after
15 the effective date of this article, continue to serve until their
16 terms expire and until their successors have been appointed and
17 have qualified. Any vacancy in the office of a member of the
18 racing commission shall be filled by appointment by the
19 governor for the unexpired term of the member whose office

20 shall be vacant. No person is eligible for appointment to or to
21 serve upon the racing commission:

22 (1) Unless he or she is an actual and bona fide resident of
23 this state, shall have resided in this state for a period of at least
24 five years next preceding his or her appointment, shall be a
25 qualified voter of this state and be not less than twenty-five
26 years of age;

27 (2) Who directly or indirectly, or in any capacity, owns or
28 has any interest, in any manner whatever, in any racetrack
29 where horse or dog race meetings may be held, including, but
30 not limited to, an interest as owner, lessor, lessee, stockholder
31 or employee;

32 (3) While serving as a member of the Legislature or as an
33 elective officer of this state; or

34 (4) Who has been or shall be convicted of an offense which,
35 under the law of this state or any other state or of the United
36 States of America, constitutes a felony, or is a violation of
37 article four, chapter sixty-one of this code.

38 (c) Each member of the racing commission shall be
39 reimbursed for all reasonable and necessary expenses actually
40 incurred in the performance of his or her duties as a member of
41 the racing commission.

42 (d) The racing commission shall have its principal office at
43 the seat of government, and shall meet annually at its principal
44 office in the month of January, and at any other times and
45 places designated by its chairman. At the annual meeting the
46 racing commission shall elect from its membership a chairman
47 and any other officers that are desired. Other meetings of the
48 racing commission may be called by the chairman on such
49 notice to the other members prescribed by the racing commis-
50 sion.

51 (e) A majority of the members of the racing commission
52 constitute a quorum for the transaction of its business or the
53 exercise of any of its powers and authority. No person not a
54 bona fide member of the racing commission shall vote upon or
55 participate in the deliberations of the racing commission on any
56 matter which may come before it. All racing commission
57 records, except as otherwise provided by law, shall be open to
58 public inspection during regular office hours.

59 (f) As soon as possible after the close of each calendar year,
60 the racing commission shall submit to the governor a report of
61 the transactions of the racing commission during the preceding
62 calendar year.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 2. THE COMMISSIONER OF THE BUREAU OF EMPLOYMENT PROGRAMS.

§21A-2-5. Traveling expenses.

1 The commissioner of the bureau of employment programs
2 shall receive the necessary traveling expenses incident to the
3 performance of his or her duties. Requisition for traveling
4 expenses shall be accompanied by a sworn itemized statement
5 which shall be filed with the auditor and preserved as a public
6 record.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 1. DIVISION OF ENVIRONMENTAL PROTECTION.

§22-1-6. Secretary of the department of environmental protection.

1 (a) The secretary is the chief executive officer of the
2 department. Subject to section seven of this article and other
3 provisions of law, the secretary shall organize the department
4 into those offices, sections, agencies and other units of activity

5 found by the secretary to be desirable for the orderly, efficient
6 and economical administration of the department and for the
7 accomplishment of its objects and purposes. The secretary may
8 appoint a deputy secretary, chief of staff, assistants, hearing
9 officers, clerks, stenographers and other officers, technical
10 personnel and employees needed for the operation of the
11 department and may prescribe their powers and duties and fix
12 their compensation within amounts appropriated.

13 (b) The secretary may designate supervisory officers or
14 other officers or employees of the department to substitute for
15 him or her on any board or commission established under this
16 code or to sit in his or her place in any hearings, appeals,
17 meetings or other activities with the substitute having the same
18 powers, duties, authority and responsibility as the director. The
19 secretary has the power to delegate, as he or she considers
20 appropriate, to supervisory officers or other officers or employ-
21 ees of the department his or her powers, duties, authority and
22 responsibility relating to issuing permits, hiring and training
23 inspectors and other employees of the department, conducting
24 hearings and appeals and any other duties and functions set
25 forth in this chapter or elsewhere in this code.

26 (c) The secretary has responsibility for the conduct of the
27 intergovernmental relations of the department, including
28 assuring:

29 (1) That the department carries out its functions in a manner
30 which supplements and complements the environmental
31 policies, programs and procedures of the federal government,
32 other state governments and other instrumentalities of this state;
33 and

34 (2) That appropriate officers and employees of the division
35 consult with individuals responsible for making policy relating
36 to environmental issues in the federal government, other state

37 governments and other instrumentalities of this state concerning
38 differences over environmental policies, programs and proce-
39 dures and concerning the impact of statutory law and rules upon
40 the environment of this state.

41 (d) In addition to other powers, duties and responsibilities
42 granted and assigned to the secretary by this chapter, the
43 secretary may:

44 (1) Sign and execute in the name of the state by the
45 “department of environmental protection” any contract or
46 agreement with the federal government or its departments or
47 agencies, subdivisions of the state, corporations, associations,
48 partnerships or individuals: *Provided*, That the powers granted
49 to the secretary to enter into agreements or contracts and to
50 make expenditures and obligations of public funds under this
51 subdivision may not exceed or be interpreted as authority to
52 exceed the powers granted by the Legislature to the various
53 commissioners, directors or board members of the various
54 departments, agencies or boards that comprise and are incorpo-
55 rated into each secretary’s department pursuant to the provi-
56 sions of chapter five-f of this code;

57 (2) Conduct research in improved environmental protection
58 methods and disseminate information to the citizens of this
59 state;

60 (3) Enter private lands to make surveys and inspections for
61 environmental protection purposes; to investigate for violations
62 of statutes or rules which the division is charged with enforcing;
63 to serve and execute warrants and processes; to make arrests;
64 issue orders, which for the purposes of this chapter include
65 consent agreements; and to otherwise enforce the statutes or
66 rules which the division is charged with enforcing;

67 (4) Acquire for the state in the name of the “department of
68 environmental protection” by purchase, condemnation, lease or
69 agreement, or accept or reject for the state, in the name of the
70 department of environmental protection, gifts, donations,
71 contributions, bequests or devises of money, security or
72 property, both real and personal, and any interest in property;

73 (5) Provide for workshops, training programs and other
74 educational programs, apart from or in cooperation with other
75 governmental agencies, necessary to insure adequate standards
76 of public service in the department. The secretary may provide
77 for technical training and specialized instruction of any
78 employee. Approved educational programs, training and
79 instruction time may be compensated for as a part of regular
80 employment. The secretary is authorized to pay out of federal
81 or state funds, or both, as funds are available, fees and expenses
82 incidental to the educational programs, training, and instruction.
83 Eligibility for participation by employees will be in accordance
84 with guidelines established by the secretary;

85 (6) Issue certifications required under 33 U.S.C. §1341 of
86 the federal Clean Water Act and enter into agreements in
87 accordance with the provisions of section seven-a, article
88 eleven of this chapter. Prior to issuing any certification the
89 secretary shall solicit from the division of natural resources
90 reports and comments concerning the possible certification. The
91 division of natural resources shall direct the reports and
92 comments to the secretary for consideration; and

93 (7) Notwithstanding any provisions of this code to the
94 contrary, employ in-house counsel to perform all legal services
95 for the secretary and the department, including, but not limited
96 to, representing the secretary, any chief, the department or any
97 office of the department in any administrative proceeding or in
98 any proceeding in any state or federal court. Additionally, the

99 secretary may call upon the attorney general for legal assistance
100 and representation as provided by law.

101 (e) The secretary shall be appointed by the governor, by and
102 with the advice and consent of the Senate, and serves at the will
103 and pleasure of the governor.

104 (f) At the time of his or her initial appointment, the secre-
105 tary must be at least thirty years old and must be selected with
106 special reference and consideration given to his or her adminis-
107 trative experience and ability, to his or her demonstrated
108 interest in the effective and responsible regulation of the energy
109 industry and the conservation and wise use of natural resources.
110 The secretary must have at least a bachelor's degree in a related
111 field and at least three years of experience in a position of
112 responsible charge in at least one discipline relating to the
113 duties and responsibilities for which the secretary will be
114 responsible upon assumption of the office. The secretary may
115 not be a candidate for or hold any other public office, may not
116 be a member of any political party committee and shall
117 immediately forfeit and vacate his or her office as secretary in
118 the event he or she becomes a candidate for or accepts appoint-
119 ment to any other public office or political party committee.

120 (g) The secretary shall be allowed and paid necessary
121 expenses incident to the performance of his or her official
122 duties. Prior to the assumption of the duties of his or her office,
123 the secretary shall take and subscribe to the oath required of
124 public officers prescribed by section five, article IV of the
125 constitution of West Virginia and shall execute a bond, with
126 surety approved by the governor, in the penal sum of ten
127 thousand dollars. The executed oath and bond shall be filed in
128 the office of the secretary of state. Premiums on the bond shall
129 be paid from the department funds.

**CHAPTER 22A. MINERS' HEALTH, SAFETY
AND TRAINING.**

**ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING;
ADMINISTRATION; ENFORCEMENT.**

**§22A-1-3. Director of the office of miners' health, safety and
training.**

1 (a) The director of the office of miners' health, safety and
2 training is responsible for surface and underground safety
3 inspections of coal mines and the administration of the office of
4 miners' health, safety and training.

5 (b) The director is the chief executive officer of the office.
6 Subject to provisions of law, he or she shall organize the office
7 into those offices, sections, agencies and other units of activity
8 found by the director to be desirable for the orderly, efficient
9 and economical administration of the office. The director may
10 appoint any other employees needed for the operation of the
11 office and may prescribe their powers and duties and fix their
12 compensation within amounts appropriated.

13 (c) The director shall be appointed by the governor, by and
14 with the advice and consent of the Senate, and shall serve at the
15 will and pleasure of the governor.

16 (d) The director of the office of miners' health, safety and
17 training shall be a citizen of West Virginia, shall be a compe-
18 tent person of good repute and temperate habits with a demon-
19 strated interest and five years' experience in underground coal
20 mining and shall have at least three years of experience in a
21 position of responsible charge in at least one discipline relating
22 to the duties and responsibilities for which the director will be
23 responsible upon assumption of the office of director. Special
24 reference shall be given to his or her administrative experience
25 and ability. The director shall devote all of his or her time to the

26 duties of the position of director and shall not be directly
27 interested financially in any mine in this or any other state nor
28 shall the director, either directly or indirectly, be a majority
29 owner of, or have control of or a controlling interest in, a mine
30 in this or any other state. The director shall not be a candidate
31 for or hold any other public office, shall not be a member of any
32 political party committee and shall immediately forfeit and
33 vacate his or her office as director in the event he or she
34 becomes a candidate for or accepts appointment to any other
35 public office or political party committee.

36 (e) The director shall be allowed and paid necessary
37 expenses incident to the performance of his or her official
38 duties. Prior to the assumption of his or her official duties, the
39 director shall take the oath required of public officials pre-
40 scribed by section 5, article IV of the constitution of West
41 Virginia and shall execute a bond, with surety approved by the
42 governor, in the penal sum of ten thousand dollars. The
43 executed oath and bond shall be filed in the office of the
44 secretary of state. Premiums on the bond shall be paid from
45 office funds.

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

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

**§22C-1-4. Water development authority; water development
board; organization of authority and board;
appointment of board members; their term of
office, compensation and expenses; director of
authority; compensation.**

1 (a) The water development authority is continued. The
2 authority is a governmental instrumentality of the state and a
3 body corporate. The exercise by the authority of the powers

4 conferred by this article and the carrying out of its purposes and
5 duties are essential governmental functions and for a public
6 purpose.

7 (b) The authority is controlled, managed and operated by
8 the seven-member board known as the water development
9 board. The director of the division of environmental protection,
10 and the commissioner of the bureau of public health and the
11 state officer or employee who in the judgment of the governor
12 is most responsible for economic or community development
13 are members ex officio of the board. The governor shall
14 designate annually the member who is the state officer or
15 employee most responsible for economic or community
16 development. The other four members of the board are ap-
17 pointed by the governor, by and with the advice and consent of
18 the Senate, for terms of two, three, four and six years, respec-
19 tively. The successor of each such appointed member shall be
20 appointed for a term of six years in the same manner the
21 original appointments were made, except that any person
22 appointed to fill a vacancy occurring prior to the expiration of
23 the term for which his or her predecessor was appointed shall
24 be appointed only for the remainder of such term. Each board
25 member serves until the appointment and qualification of his or
26 her successor. No more than two of the appointed board
27 members shall at any one time belong to the same political
28 party. Appointed board members may be reappointed to serve
29 additional terms.

30 (c) All members of the board shall be citizens of the state.
31 Each appointed member of the board, before entering upon his
32 or her duties, shall comply with the requirements of article one,
33 chapter six of this code and give bond in the sum of twenty-five
34 thousand dollars in the manner provided in article two, chapter
35 six of this code. The governor may remove any board member
36 for cause as provided in article six, chapter six of this code.

37 (d) Annually the board shall elect one of its appointed
38 members as chair and another as vice chair, and shall appoint
39 a secretary-treasurer, who need not be a member of the board.
40 Four members of the board is a quorum and the affirmative vote
41 of four members is necessary for any action taken by vote of the
42 board. No vacancy in the membership of the board impairs the
43 rights of a quorum by such vote to exercise all the rights and
44 perform all the duties of the board and the authority. The person
45 appointed as secretary-treasurer, including a board member if
46 he or she is appointed, shall give bond in the sum of fifty
47 thousand dollars in the manner provided in article two, chapter
48 six of this code.

49 (e) The secretary of the division of environmental protec-
50 tion, the commissioner of the bureau of public health and the
51 state officer or employee most responsible for economic or
52 community development shall not receive any compensation for
53 serving as board members. Each of the four appointed members
54 of the board shall receive an annual salary of five thousand
55 dollars, payable in monthly installments. Each of the seven
56 board members shall be reimbursed for all reasonable and
57 necessary expenses actually incurred in the performance of his
58 or her duties as a member of the board. All expenses incurred
59 by the board are payable solely from funds of the authority or
60 from funds appropriated for that purpose by the Legislature and
61 no liability or obligation shall be incurred by the authority
62 beyond the extent to which moneys are available from funds of
63 the authority or from such appropriations.

64 (f) There shall also be a director of the authority appointed
65 by the board. The compensation of the director shall be fixed by
66 the board.

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-four-d
4 of this code. After having conducted a performance audit
5 through its joint committee on government operations, pursuant
6 to section nine, article ten, chapter four of this code, the
7 Legislature hereby finds and declares that the public service
8 commission should be continued and reestablished. Accord-
9 ingly, notwithstanding the provisions of section five, article ten,
10 chapter four of this code, the public service commission shall
11 continue to exist until the first day of July, two thousand one.
12 The public service commission may sue and be sued by that
13 name. The public service commission shall consist of three
14 members who shall be appointed by the governor with the
15 advice and consent of the Senate. The commissioners shall be
16 citizens and residents of this state and at least one of them shall
17 be duly licensed to practice law in West Virginia, with not less
18 than ten years' actual work experience in the legal profession
19 as a member of a state bar. No more than two of the commis-
20 sioners shall be members of the same political party. Each
21 commissioner shall, before entering upon the duties of his or
22 her office, take and subscribe to the oath provided by section
23 five, article IV of the constitution of this state. The oath shall be
24 filed in the office of the secretary of state. The governor shall
25 designate one of the commissioners to serve as chairman at the
26 governor's will and pleasure. The chairman shall be the chief
27 administrative officer of the commission. The governor may
28 remove any commissioner only for incompetency, neglect of
29 duty, gross immorality, malfeasance in office or violation of
30 subsection (c) of this section.

31 (b) The unexpired terms of members of the public service
32 commission at the time this subsection becomes effective are

33 continued. Upon expiration of the terms, appointments are for
34 terms of six years, except that an appointment to fill a vacancy
35 is for the unexpired term only. The commissioners whose terms
36 are terminated by the provisions of this subsection are eligible
37 for reappointment.

38 (c) No person while in the employ of, or holding any
39 official relation to, any public utility subject to the provisions
40 of this chapter, or holding any stocks or bonds of a public utility
41 subject to the provisions of this chapter, or who is pecuniarily
42 interested in a public utility subject to the provisions of this
43 chapter, may serve as a member of the commission or as an
44 employee of the commission. Nor may any commissioner be a
45 candidate for or hold public office, or be a member of any
46 political committee, while acting as a commissioner; nor may
47 any commissioner or employee of the commission receive any
48 pass, free transportation or other thing of value, either directly
49 or indirectly, from any public utility or motor carrier subject to
50 the provisions of this chapter. In case any of the commissioners
51 becomes a candidate for any public office or a member of any
52 political committee, the governor shall remove him or her from
53 office and shall appoint a new commissioner to fill the vacancy
54 created.

55 (d) The salaries of members of the public service commis-
56 sion and the manner in which they are paid established by the
57 prior enactment of this section are continued. Effective the first
58 day of July, two thousand one the annual salary of each
59 commissioner provided in section two-a, article seven, chapter
60 six of this code shall be paid in monthly installments from the
61 special funds in the percentages that follow:

62 (1) From the public service commission fund collected
63 under the provisions of section six, article three of this chapter,
64 eighty percent;

65 (2) From the public service commission motor carrier fund
66 collected under the provisions of section six, article six, chapter
67 twenty-four-a of this code, seventeen percent; and

68 (3) From the public service commission gas pipeline safety
69 fund collected under the provisions of section three, article five,
70 chapter twenty-four-b of this code, three percent.

71 In addition to the salary provided for all commissioners in
72 section two-a, article seven, chapter six of this code, the
73 chairman of the commission shall receive five thousand dollars
74 per annum to be paid in monthly installments from the public
75 service commission fund collected under the provisions of
76 section six, article three of this chapter.

CHAPTER 31. CORPORATION.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-4. Governing body; organization and meetings; quorum; administrative expenses.

1 (a) The governing body of the authority shall consist of the
2 voting members of the board as provided for in section three of
3 this article and shall exercise all the powers given to the
4 authority in this article. On the second Monday of July of each
5 odd-numbered year, the board shall meet to elect a chairman
6 and a secretary from among its own members. The secretary of
7 the department of administration or his or her designated
8 representative shall serve as treasurer of the board. The board
9 shall otherwise meet quarterly, unless a special meeting is
10 called by its chairman.

11 (b) A majority of the members of the board constitute a
12 quorum, and a quorum must be present for the board to conduct

13 business. Unless the bylaws require a larger number, action
14 may be taken by majority vote of the members present.

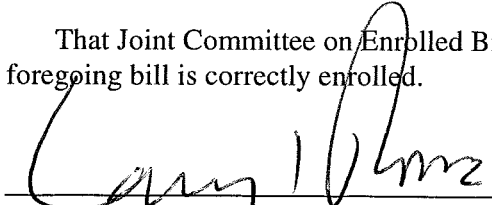
15 (c) The board shall prescribe, amend and repeal bylaws and
16 rules governing the manner in which the business of the
17 authority is conducted and shall review and approve the budget
18 prepared by the executive director annually.

19 (d) On or before the first day of April, two thousand, the
20 West Virginia regional jail and correctional facility authority
21 board shall, with the advice and consent of the Senate, appoint
22 an executive director to act as its chief executive officer, to
23 serve at the will and pleasure of the board. The compensation
24 of the director shall be at the same rate as the commissioner of
25 corrections. The appointment shall be for a term of five years
26 to begin on the first day of April, two thousand. The executive
27 director may employ any other personnel he or she determines
28 necessary and may appoint counsel and legal staff for the
29 authority and retain any temporary engineering, financial and
30 other consultants or technicians that are required for any special
31 study or survey consistent with the provisions of this article.
32 The executive director may engage in negotiations and carry
33 out plans to implement the provisions of this article and
34 exercise those powers listed in section five of this article on
35 behalf of the authority. The executive director shall prepare
36 annually a budget to be submitted to the board for its review
37 and approval.

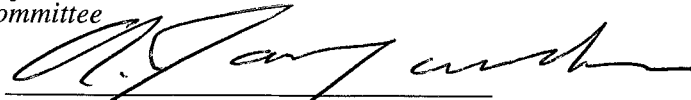
38 (c) All costs incidental to the administration of the author-
39 ity, including office expense, personal services expense and
40 current expense, shall be paid from the regional jail and
41 correctional facility development fund in accordance with
42 guidelines issued by the board of the authority.

Enr. Com. Sub. for H. B. 2912] 40

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



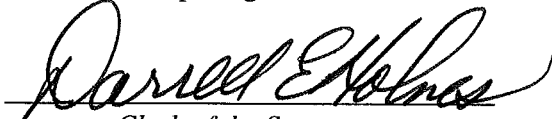
Chairman Senate Committee




Chairman House Committee

Originating in the House.

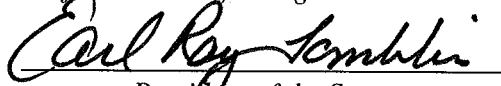
In effect from passage



Clerk of the Senate



Clerk of the House of Delegates

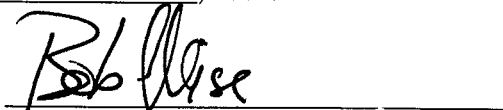


President of the Senate



Speaker of the House of Delegates

The within is approved this the 18th
day of April, 2001.



Governor

PRESENTED TO THE
GOVERNOR

Date 4/16/01

Time 6:45 pm