

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 238**

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

6 _____
7 [Originating in the Committee on Finance;
8 reported February 18, 2011.]
9 _____

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11
12 A BILL to amend and reenact §4-10-8 of the Code of West Virginia,
13 1931, as amended; to amend and reenact §5F-1-2 of said code;
14 to amend and reenact §5F-2-1 of said code; to amend and
15 reenact §6-7-2a of said code; to amend and reenact §9A-1-1,
16 §9A-1-2 and §9A-1-4 of said code; and to amend said code by
17 adding thereto four new sections, designated §9A-1-1a, §9A-1-
18 1b, §9A-1-1c and §9A-1-1d, all relating to redesignating the
19 Division of Veterans' Affairs as the Department of Veterans'
20 Assistance within the executive branch; establishing the time
21 period for review of the Department of Veterans' Assistance by
22 the Joint Standing Committee on Government Organization and
23 the Joint Committee on Government Operations; providing that
24 the Veterans' Council be part of the Department of Veterans'

1 Assistance; providing that the department be supervised by a
2 secretary-level administrator; establishing the salary of the
3 secretary; providing an effective date for redesignation;
4 making other changes to the code to comport with the
5 amendment; and providing technical and clerical cleanup.

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

7 That §4-10-8 of the Code of West Virginia, 1931, as amended,
8 be amended and reenacted; that §5F-1-2 of said code be amended and
9 reenacted; that §5F-2-1 of said code be amended and reenacted; that
10 §6-7-2a of said code be amended and reenacted; that §9A-1-1, §9A-1-
11 2 and §9A-1-4 of said code be amended and reenacted; and that said
12 code be amended by adding thereto four new sections, designated
13 §9A-1-1a, §9A-1-1b, §9A-1-1c and §9A-1-1d, all to read as follows:

14 **CHAPTER 4. THE LEGISLATURE.**

15 **ARTICLE 10. PERFORMANCE REVIEW ACT.**

16 **§4-10-8. Schedule of departments for agency review.**

17 (a) Each department shall make a presentation pursuant to the
18 provisions of this article, to the Joint Standing Committee and the
19 committee during the first interim meeting after the regular
20 session of the year in which the department is to be reviewed
21 pursuant to the schedule set forth in subsection (b) of this
22 section.

23 (b) An agency review shall be performed on one or more
24 agencies under the purview of each department at least once every

1 six years, commencing as follows:

2 (1) 2008, the Department of Administration;

3 (2) 2009, the Department of Education and the Arts, and the
4 Department of Education, including the Higher Education Policy
5 Commission and the West Virginia Council for Community and
6 Technical College Education;

7 (3) 2010, the Department of Revenue and the Department of
8 Commerce;

9 (4) 2011, the Department of Environmental Protection and the
10 Department of Military Affairs and Public Safety;

11 (5) 2012, the Department of Health and Human Resources,
12 including the Bureau of Senior Services; ~~and~~

13 (6) 2013, the Department of Transportation; and

14 (7) 2016, the Department of Veteran's Assistance.

15 **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE**

16 **GOVERNMENT.**

17 **ARTICLE 1. GENERAL PROVISIONS.**

18 **§5F-1-2. Executive departments created; offices of secretary**
19 **created.**

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

22 (1) Department of Administration;

23 (2) Department of Education and the Arts;

24 (3) Department of Environmental Protection;

1 (4) Department of Health and Human Resources;
2 (5) Department of Military Affairs and Public Safety;
3 (6) Department of Revenue;
4 (7) Department of Transportation; ~~and~~
5 (8) Department of Commerce; and
6 (9) Effective July 1, 2011, Department of Veteran's
7 Assistance.

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

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

12 **§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (B) Board of Manufactured Housing Construction and Safety
2 provided in article nine, chapter twenty-one of this code.

3 (2) Office of Miners' Health, Safety and Training provided in
4 article one, chapter twenty-two-a of this code. The following
5 boards are transferred to the Office of Miners' Health, Safety and
6 Training for purposes of administrative support and liaison with
7 the Office of the Governor:

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

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

13 (C) Mine Inspectors' Examining Board provided in article nine,
14 chapter twenty-two-a of this code.

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

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

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

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

24 (7) Workforce West Virginia provided in chapter twenty-one-a

1 of this code, which includes:

2 (A) Division of Unemployment Compensation;

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

4 (C) Division of Workforce Development; and

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

6 (8) Division of Energy provided in article two-f, chapter
7 five-b of this code.

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

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

15 (e) The following agencies and boards, including all of the
16 allied, advisory and affiliated entities, are transferred to the
17 Department of Environmental Protection for purposes of
18 administrative support and liaison with the office of the Governor:

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

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

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

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

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

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

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

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

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

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

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

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

21 (g) The following agencies and boards, including all of the
22 allied, advisory, affiliated or related entities and funds
23 associated with any agency or board, are incorporated in and
24 administered as a part of the Department of Health and Human

1 Resources:

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

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

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

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

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

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

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

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

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

24 (1) Adjutant General's Department provided in article one-a,

1 chapter fifteen of this code;

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

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

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

8 (5) Division of Homeland Security and Emergency Management and
9 Disaster Recovery Board provided in article five, chapter fifteen
10 of this code and Emergency Response Commission provided in article
11 five-a of said chapter;

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

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

16 (8) Division of Corrections provided in chapter twenty-five of
17 this code;

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

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

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

24 ~~(12) Division of Veterans' Affairs and Veterans' Council~~

1 ~~provided in article one, chapter nine-a of this code.~~

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

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

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

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

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

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

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

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

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

23 (9) The State Budget Office provided in article two of this
24 chapter;

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~(k)~~ (l) Except for powers, authority and duties that have been
7 delegated to the secretaries of the departments by the provisions
8 of section two of this article, the position of administrator and
9 the powers, authority and duties of each administrator and agency
10 are not affected by the enactment of this chapter.

11 ~~(l)~~ (m) Except for powers, authority and duties that have been
12 delegated to the secretaries of the departments by the provisions
13 of section two of this article, the existence, powers, authority
14 and duties of boards and the membership, terms and qualifications
15 of members of the boards are not affected by the enactment of this
16 chapter. All boards that are appellate bodies or are independent
17 decision makers shall not have their appellate or independent
18 decision-making status affected by the enactment of this chapter.

19 ~~(m)~~ (n) Any department previously transferred to and
20 incorporated in a department by prior enactment of this section
21 means a division of the appropriate department. Wherever reference
22 is made to any department transferred to and incorporated in a
23 department created in section two, article one of this chapter, the
24 reference means a division of the appropriate department and any

1 reference to a division of a department so transferred and
2 incorporated means a section of the appropriate division of the
3 department.

4 ~~(n)~~ (o) When an agency, board or commission is transferred
5 under a bureau or agency other than a department headed by a
6 secretary pursuant to this section, that transfer is solely for
7 purposes of administrative support and liaison with the Office of
8 the Governor, a department secretary or a bureau. Nothing in this
9 section extends the powers of department secretaries under section
10 two of this article to any person other than a department secretary
11 and nothing limits or abridges the statutory powers and duties of
12 statutory commissioners or officers pursuant to this code.

13 **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

14 **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

15 **§6-7-2a. Terms of certain appointive state officers; appointment;**
16 **qualifications; powers and salaries of such officers.**

17 (a) Each of the following appointive state officers named in
18 this subsection shall be appointed by the Governor, by and with the
19 advice and consent of the Senate. Each of the appointive state
20 officers serves at the will and pleasure of the Governor for the
21 term for which the Governor was elected and until the respective
22 state officers' successors have been appointed and qualified. Each
23 of the appointive state officers are subject to the existing
24 qualifications for holding each respective office and each has and

1 is hereby granted all of the powers and authority and shall perform
2 all of the functions and services heretofore vested in and
3 performed by virtue of existing law respecting each office.

4 ~~Prior to July 1, two thousand six, each such named appointive~~
5 ~~state officer shall continue to receive the annual salaries they~~
6 ~~were receiving as of the effective date of the enactment of this~~
7 ~~section in two thousand six and thereafter, notwithstanding any~~
8 ~~other provision of this code to the contrary,~~ The annual salary of
9 each named appointive state officer ~~shall be~~ is as follows:

10 Commissioner, Division of Highways, \$92,500; Commissioner,
11 Division of Corrections, \$80,000; Director, Division of Natural
12 Resources, \$75,000; Superintendent, State Police, \$85,000;
13 Commissioner, Division of Banking, \$75,000; Commissioner, Division
14 of Culture and History, \$65,000; Commissioner, Alcohol Beverage
15 Control Commission, \$75,000; Commissioner, Division of Motor
16 Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000;
17 members, Health Care Authority, \$70,000; Director, Human Rights
18 Commission, \$55,000; Commissioner, Division of Labor, \$70,000;
19 ~~Director, Division of Veterans' Affairs, sixty-five thousand~~
20 ~~dollars,~~ Chairperson, Board of Parole, \$55,000; members, Board of
21 Parole, \$50,000; members, Employment Security Review Board,
22 \$17,000; and Commissioner, ~~Bureau of Employment Programs~~ Workforce
23 West Virginia, \$75,000. Secretaries of the departments shall be
24 paid an annual salary as follows: Health and Human Resources,

1 \$95,000; Transportation, \$95,000: *Provided*, That if the same
2 person is serving as both the Secretary of Transportation and the
3 Commissioner of Highways, he or she shall be paid \$120,000;
4 Revenue, \$95,000; Military Affairs and Public Safety, \$95,000;
5 Administration, \$95,000; Education and the Arts, \$95,000; Commerce,
6 \$95,000; Veterans' Assistance, \$95,000; and Environmental
7 Protection, \$95,000; *Provided, however*, That any increase in the
8 salary of any current appointive state officer named in this
9 subsection pursuant to the reenactment of this subsection during
10 the regular session of the Legislature in 2006 that exceeds \$5,000
11 shall be paid to such officer or his or her successor beginning on
12 July 1, 2006, in annual increments of \$5,000 per fiscal year, up to
13 the maximum salary provided in this subsection: *Provided further*,
14 That if the same person is serving as both the Secretary of
15 Transportation and the Commissioner of Highways, then the annual
16 increments of \$5,000 per fiscal year do not apply.

17 (b) Each of the state officers named in this subsection shall
18 continue to be appointed in the manner prescribed in this code and,
19 prior to July 1, 2006, each of the state officers named in this
20 subsection shall continue to receive the annual salaries he or she
21 was receiving as of the effective date of the enactment of this
22 section in 2006 and shall thereafter, notwithstanding any other
23 provision of this code to the contrary, be paid an annual salary as
24 follows:

1 Director, Board of Risk and Insurance Management, \$80,000;
2 Director, Division of Rehabilitation Services, \$70,000; Director,
3 Division of Personnel, \$70,000; Executive Director, Educational
4 Broadcasting Authority, \$75,000; Secretary, Library Commission,
5 \$72,000; Director, Geological and Economic Survey, \$75,000;
6 Executive Director, prosecuting attorneys Institute, \$70,000;
7 Executive Director, Public Defender Services, \$70,000;
8 Commissioner, Bureau of Senior Services, \$75,000; Director, State
9 Rail Authority, \$65,000; Executive Director, Women's Commission,
10 \$45,000; Director, Hospital Finance Authority, \$35,000; member,
11 Racing Commission, \$12,000; Chairman, Public Service Commission,
12 \$85,000; members, Public Service Commission, \$85,000; Director,
13 Division of Forestry, \$75,000; Director, Division of Juvenile
14 Services, \$80,000; and Executive Director, Regional Jail and
15 Correctional Facility Authority, \$80,000: *Provided*, That any
16 increase in the salary of any current appointive state officer
17 named in this subsection pursuant to the reenactment of this
18 subsection during the regular session of the Legislature in 2006
19 that exceeds \$5,000 shall be paid to such officer or his or her
20 successor beginning on July, 1 2006, in annual increments of \$5,000
21 per fiscal year, up to the maximum salary provided in this
22 subsection.

23 (c) Each of the following appointive state officers named in
24 this subsection shall be appointed by the Governor, by and with the

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

10 Prior to July 1, 2006, each such named appointive state
11 officer shall continue to receive the annual salaries they were
12 receiving as of the effective date of the enactment of this section
13 in 2006 and thereafter, notwithstanding any other provision of this
14 code to the contrary, the annual salary of each named appointive
15 state officer shall be as follows:

16 Commissioner, State Tax Division, \$92,500; Insurance
17 Commissioner, ~~Insurance Commission,~~ \$92,500; Director, Lottery
18 Commission, \$92,500; Director, Division of Homeland Security and
19 Emergency Management, \$65,000; and Adjutant General, \$92,500.

20 (d) No increase in the salary of any appointive state officer
21 pursuant to this section ~~shall~~ may be paid until and unless the
22 appointive state officer has first filed with the State Auditor and
23 the Legislative Auditor a sworn statement, on a form to be
24 prescribed by the Attorney General, certifying that his or her

1 spending unit is in compliance with any general law providing for
2 a salary increase for his or her employees. The Attorney General
3 shall prepare and distribute the form to the affected spending
4 units.

5 **CHAPTER 9A. VETERANS' AFFAIRS.**

6 **ARTICLE 1. DIVISION OF VETERANS' AFFAIRS.**

7 **§9A-1-1. Creation and general purposes.**

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

24 All references in this code to the West Virginia Division of

1 Veterans' Affairs and the Director of the West Virginia Division of
2 Veterans' Affairs shall mean the Department of Veteran's Assistance
3 and the Secretary of the Department of Veteran's Assistance,
4 respectively.

5 **§9A-1-1a. Department of Veterans' Assistance; office of Secretary**
6 **of Department of Veterans' Assistance.**

7 (a) The Secretary of the Department of Veterans' Assistance is
8 the chief executive officer of the department. Subject to the
9 requirements for the qualification and appointment of the
10 secretary provided in section four of this article, the Governor
11 shall appoint the secretary, by and with the advice and consent of
12 the Senate, for the term for which the Governor is elected and
13 until a successor shall have been appointed and qualified. The
14 Secretary shall serve at the will and pleasure of the Governor. Any
15 reference in this code to the Division of Veterans Affairs or to
16 the Department of Veterans Affairs means the Department of
17 Veterans' Assistance. Any reference in this code to the Director
18 of the Division of Veterans Affairs means the Secretary of the
19 Department of Veterans' Assistance. As used in this chapter,
20 "secretary" means the Secretary of Veterans' Assistance and
21 "division" means Department of Veterans' Assistance.

22 (b) The department may receive federal funds.

23 (c) The secretary serves at the will and pleasure of the
24 Governor. The annual compensation of the secretary shall be as

1 specified in §6-7-2a of this code.

2 **§9A-1-1b. Powers and duties of the secretary.**

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

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

8 (c) The secretary may employ staff, assistants and employees
9 as necessary for the efficient operation of the department.

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

13 **§9A-1-1c. Reports by secretary.**

14 The secretary shall report annually to the Governor concerning
15 the conduct of the department and make other reports as the
16 Governor may require.

17 **§9A-1-1d. Right of appeal from interference with functioning of**
18 **agency.**

19 Any governmental entity may appeal to the Governor for review
20 upon a showing that application of the secretary's authority may
21 interfere with the successful functioning of that entity. The
22 Governor's decision controls on appeal.

23 **§9A-1-2. Veterans' Council; administration of department.**

24 There is continued the "Veterans' Council" consisting of nine

1 members who must be citizens and residents of this state and who
2 have served in and been honorably discharged or separated under
3 honorable conditions from the Armed Forces of the United States and
4 whose service was within a time of war as defined by the laws of
5 the United States, either Public Law No. 2 -- 73rd Congress, or
6 Public Law No. 346 -- 78th Congress, and amendments thereto. ~~At~~
7 Where feasible, at least one member of the council must shall be a
8 veteran of World War II, at least one member of the council ~~must~~
9 shall be a veteran of the Korean Conflict, at least two members of
10 the council ~~must shall~~ be veterans of the Vietnam era, at least one
11 member ~~must shall~~ be a veteran of the first Gulf War and at least
12 one member ~~must shall~~ be a veteran of the Afghanistan or Iraqi
13 Conflicts. The members of the veterans' council ~~must shall~~ be
14 selected with special reference to their ability and fitness to
15 effectuate the purposes of this article. If an eligible veteran is
16 not available or cannot be selected, members may be selected from
17 those veterans who served during a peacetime period provided all
18 other conditions are met.

19 A ~~director~~ secretary and such veterans' affairs officers,
20 assistants and employees as ~~may be deemed~~ the secretary considers
21 advisable, shall administer the West Virginia ~~division of veterans'~~
22 ~~affairs~~ Department of Veteran's Assistance.

23 **§9A-1-4. Duties and functions of Veterans' Council; appointment of**
24 **secretary; honoring academic achievement at military**

1 **academies.**

2 (a) It is the duty and function of the Veterans' Council to
3 advise the ~~director~~ secretary on the general administrative
4 policies of the ~~division~~ department, to select, at their first
5 meeting in each fiscal year commencing on July 1, a ~~chairman~~
6 chairperson to serve one year, to advise the ~~director~~ secretary on
7 rules as may be necessary, to advise the Governor and the
8 Legislature with respect to legislation affecting the interests of
9 veterans, their widows, dependents and orphans and to make annual
10 reports to the Governor respecting the service of the ~~division~~
11 department. The ~~director~~ secretary has the same eligibility and
12 qualifications prescribed for members of the Veterans' Council.
13 ~~The Governor shall appoint a director for a term of six years, by~~
14 ~~and with the advice and consent of the Senate. Before making the~~
15 ~~appointment the Governor shall request the council of the West~~
16 ~~Virginia division of veterans' affairs to furnish a full and~~
17 ~~complete report concerning the qualifications and suitability of~~
18 ~~the proposed appointee. The director may only be removed by the~~
19 ~~Governor for cause, but shall have upon his or her own request an~~
20 ~~open hearing before the Governor on the complaints or charges~~
21 ~~lodged against him or her. The action of the Governor shall be~~
22 ~~final.~~ The ~~director~~ secretary ex officio shall ~~be the executive~~
23 ~~secretary of the Veterans' Council, keep the minutes of each~~
24 ~~meeting and be in charge of~~ maintain all records of the ~~division~~

1 veterans' council.

2 (b) The Veterans' Council may annually honor each West
3 Virginian graduating from the U.S. Military Academy, the U.S. Naval
4 Academy, the U.S. Air Force Academy and the U.S. Coast Guard
5 Academy with the highest grade point average by bestowing upon him
6 or her the "West Augusta Award." The award shall be in a design
7 and form established by the council and include the famous
8 Revolutionary War phrase from which the award's name is derived:
9 "Once again our brethren from West Augusta have answered the call
10 to duty." The council shall coordinate the manner of recognition
11 of the recipient at graduation ceremonies with each academy.

(NOTE: The purpose of this bill is to redesignate the
Division of Veterans' Affairs as the Department of Veteran's
Assistance and to provide that the department be supervised by a
secretary level administrator.

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