

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### Senate Bill 310

FISCAL  
NOTE

BY SENATORS GAUNCH, DRENNAN, KARNES, AND

RUCKER

[Introduced January 18, 2018; Referred  
to the Committee on Agriculture and Rural Development;  
and then to the Committee on Finance]

1 A BILL to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend  
 2 and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend  
 3 said code by adding thereto a new section, designated §19-1-3b; to amend and reenact  
 4 §19-1A-5 of said code; to amend and reenact §19-1B-3 of said code; and to amend and  
 5 reenact §19-12A-5 of said code, all relating to transferring the Division of Forestry from  
 6 the Department of Commerce to the Department of Agriculture; eliminating references in  
 7 code showing the Division of Forestry as part of the Department of Commerce; transferring  
 8 all authorities, powers, and duties of the Division of Forestry to the Department of  
 9 Agriculture; ensuring all legislative rules currently in effect remain in effect as if they were  
 10 proposed by the Division of Forestry under the Department of Agriculture; making the  
 11 Director of the Division of Forestry a position hired by the Commissioner of Agriculture  
 12 rather than a position appointed by the Governor; and making the Director of the Division  
 13 of Forestry a will and pleasure employee of the Commissioner of Agriculture rather than  
 14 the Governor.

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

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 1. DEPARTMENT OF COMMERCE.**

#### **§5B-1-2. Agencies, boards, commissions, divisions and offices comprising the Department of Commerce.**

1 The Department of Commerce consists of the following agencies, boards, commissions,  
 2 divisions and offices, including all of the allied, advisory, affiliated or related entities, which are  
 3 incorporated in and administered as part of the Department of Commerce:

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

5 (A) Occupational Safety and Health Review Commission provided in §22-3A-1 *et seq.* of  
 6 this code; and

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

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

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

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

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

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

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

18 (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-  
19 1 *et seq.* of this code;

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

21 ~~(6)~~ (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

22 ~~(7)~~ (6) Workforce West Virginia provided in chapter twenty-one-a of this code, which  
23 includes:

24 (A) Division of Unemployment Compensation;

25 (B) Division of Employment Service;

26 (C) Division of Workforce Development; and

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

28 ~~(8)~~ (7) Division of Energy provided in §5B-2F-1 *et seq.* of this code; and

29 ~~(9)~~ (8) West Virginia Tourism Office and the Tourism Commission provided in §5B-2-1 *et*  
30 *seq.* of this code.

## CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF

## STATE GOVERNMENT.

### ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

4 (1) Building Commission provided in §5-6-1 *et seq.* of this code;

5 (2) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;

6 (3) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

7 (4) Commission on Uniform State Laws provided in §29-1A-1 of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-  
 35 1 *et seq.* of this code;

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

37 ~~(6)~~ (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code; and

38 ~~(7)~~ (6) Workforce West Virginia provided in chapter twenty-one-a of this code, which  
 39 includes:

40 (A) Division of Unemployment Compensation;

41 (B) Division of Employment Service;

42 (C) Division of Workforce Development; and

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

44 ~~(8)~~ (7) Division of Energy provided in §5B-2F-1 *et seq.* of this code.

45 ~~(9)~~ (8) Division of Tourism Commission provided in §5B-2H-1 *et seq.* of this code.

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

48 (d) The Water Development Authority and the Water Development Authority Board

49 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the  
50 executive branch.

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

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

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

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

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

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

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

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

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

65 (1) Library Commission provided in §10-1-1 of this code;

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

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

68 (g) The Educational Broadcasting Authority provided in §10-5-1 *et seq.* of this code is part  
69 of the Department of Education and the Arts for the purposes of administrative support and liaison  
70 with the Office of the Governor.

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

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

- 75 (2) Division of Human Services provided in §9-2-1 *et seq.* of this code;
- 76 (3) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;
- 77 (4) Office of Emergency Medical Services and the Emergency Medical Service Advisory  
78 Council provided in §16-4C-1 *et seq.* of this code;
- 79 (5) Health Care Authority provided in §16-29B *et seq.* of this code;
- 80 (6) Commission on Mental Retardation provided in §29-15-1 *et seq.* of this code;
- 81 (7) Women's Commission provided in §29-20-1 *et seq.* of this code; and
- 82 (8) The Child Support Enforcement Division provided in chapter forty-eight of this code.
- 83 (i) The following agencies and boards, including all of the allied, advisory, affiliated or  
84 related entities and funds associated with any agency or board, are incorporated in and  
85 administered as a part of the Department of Military Affairs and Public Safety:
- 86 (1) Adjutant General's Department provided in §15-1A-1 *et seq.* of this code;
- 87 (2) Armory Board provided in §15-6-1 *et seq.* of this code;
- 88 (3) Military Awards Board provided in §15-1G-1 *et seq.* of this code;
- 89 (4) West Virginia State Police provided in §15-2-1 *et seq.* of this code;
- 90 (5) Division of Homeland Security and Emergency Management and Disaster Recovery  
91 Board provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided  
92 in §15-5A-1 *et seq.* of this code;
- 93 (6) Sheriffs' Bureau provided in §15-8-1 *et seq.* of this code;
- 94 (7) Division of Justice and Community Services provided in §15-9A-1 *et seq.* of this code;
- 95 (8) Division of Corrections provided in chapter twenty-five of this code;
- 96 (9) Fire Commission provided in §29-3-1 *et seq.* of this code;
- 97 (10) Regional Jail and Correctional Facility Authority provided in §31-20-1 *et seq.* of this  
98 code; and
- 99 (11) Board of Probation and Parole provided in article §62-12-1 *et seq.* of this code.
- 100 (j) The following agencies and boards, including all of the allied, advisory, affiliated or

101 related entities and funds associated with any agency or board, are incorporated in and  
102 administered as a part of the Department of Revenue:

- 103 (1) Tax Division provided in chapter eleven of this code;
- 104 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;
- 105 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;
- 106 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;
- 107 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of  
108 this code and §60-2-1 *et seq.* of this code;
- 109 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* -one-a of this  
110 code;
- 111 (7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;
- 112 (8) Division of Banking provided in §31A-2-1 *et seq.* of this code;
- 113 (9) The State Budget Office provided in ~~article two of this chapter~~ §11B-2-1 *et seq.* of this  
114 code;
- 115 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;
- 116 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and
- 117 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

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

- 121 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;
- 122 (2) Parkways, Economic Development and Tourism Authority provided in §17-16A-1 *et*  
123 *seq.* of this code;
- 124 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;
- 125 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;
- 126 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

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

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

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

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

136 (n) Except for powers, authority and duties that have been delegated to the secretaries of  
137 the departments by the provisions of §5F2-2 of this code, the existence, powers, authority and  
138 duties of boards and the membership, terms and qualifications of members of the boards are not  
139 affected by the enactment of this chapter. All boards that are appellate bodies or are independent  
140 decision makers shall not have their appellate or independent decision-making status affected by  
141 the enactment of this chapter.

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

148 (p) When an agency, board or commission is transferred under a bureau or agency other  
149 than a department headed by a secretary pursuant to this section, that transfer is solely for  
150 purposes of administrative support and liaison with the Office of the Governor, a department  
151 secretary or a bureau. Nothing in this section extends the powers of department secretaries under  
152 §5F-2-2 of this code to any person other than a department secretary and nothing limits or

153 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this  
 154 code.

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

### **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

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

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

9 The annual salary of each named appointive state officer is as follows:

10 Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections,  
 11 \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police,  
 12 \$85,000; Commissioner, Division of Banking, \$75,000; Commissioner, Division of Culture and  
 13 History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000;  
 14 Commissioner, Division of Motor Vehicles, \$75,000; Director, Human Rights Commission,  
 15 \$55,000; Commissioner, Division of Labor, \$70,000; prior to July 1, 2011, Director, Division of  
 16 Veterans Affairs, \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of Parole,  
 17 \$50,000; members, Employment Security Review Board, \$17,000; and Commissioner, Workforce  
 18 West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary as follows:  
 19 Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the Secretary of  
 20 the Department of Health and Human Resources shall be paid an annual salary not to exceed

21 \$175,000; Transportation, \$95,000: *Provided, however,* That if the same person is serving as both  
22 the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid  
23 \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000; Administration,  
24 \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000;  
25 and Environmental Protection, \$95,000: *Provided further,* That any officer specified in this  
26 subsection whose salary is increased by more than \$5,000 as a result of the amendment and  
27 reenactment of this section during the 2011 regular session of the Legislature shall be paid the  
28 salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum  
29 salary provided in this subsection.

30 (b) Each of the state officers named in this subsection shall continue to be appointed in  
31 the manner prescribed in this code and shall be paid an annual salary as follows:

32 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of  
33 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,  
34 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,  
35 Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute,  
36 \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of  
37 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital  
38 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service  
39 Commission, \$85,000; members, Public Service Commission, \$85,000; ~~Director, Division of~~  
40 ~~Forestry, \$75,000~~ Director, Division of Juvenile Services, \$80,000; Executive Director, Regional  
41 Jail and Correctional Facility Authority, \$80,000 and Executive Director of the Health Care  
42 Authority, \$80,000.

43 (c) Each of the following appointive state officers named in this subsection shall be  
44 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
45 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
46 Governor was elected and until the respective state officers' successors have been appointed

47 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
48 holding each respective office and each has and is hereby granted all of the powers and authority  
49 and shall perform all of the functions and services heretofore vested in and performed by virtue  
50 of existing law respecting each office.

51 The annual salary of each named appointive state officer shall be as follows:

52 Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director,  
53 Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency  
54 Management, \$65,000; and Adjutant General, \$125,000.

55 (d) No increase in the salary of any appointive state officer pursuant to this section may  
56 be paid until and unless the appointive state officer has first filed with the State Auditor and the  
57 Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General,  
58 certifying that his or her spending unit is in compliance with any general law providing for a salary  
59 increase for his or her employees. The Attorney General shall prepare and distribute the form to  
60 the affected spending units.

## CHAPTER 19. AGRICULTURE.

### ARTICLE 1. DEPARTMENT OF AGRICULTURE.

#### **§19-1-3b. Division of Forestry.**

61 The Division of Forestry, previously a division of the Department of Commerce, is  
62 transferred to the Department of Agriculture, effective July 1, 2018. All real and personal property  
63 of the division held by the Department of Commerce, including the rights and administrative  
64 authority over the Division of Forestry Fund (3081) shall be transferred to the Department of  
65 Agriculture. All employees of the Division of Forestry shall be transferred to the Department of  
66 Agriculture, at their existing hourly rate or salary and with all accrued benefits. All employees of  
67 the division shall become will and pleasure employees of the Commissioner of Agriculture in  
68 accordance with §29-6-4 of this code, and are exempt from coverage by classified service. All

69 legislative rules proposed by the Division of Forestry under the Department of Commerce that  
 70 were previously authorized and are in effect remain in effect as if they were proposed by the  
 71 Division of Forestry under the Department of Agriculture. The Division of Forestry's authorities,  
 72 powers and duties remain unchanged by this section.

## **ARTICLE 1A. DIVISION OF FORESTRY.**

### **§19-1A-5. Director of Division of Forestry; appointment; qualifications.**

1           The Director of the Division of Forestry shall be ~~appointed by the Governor, by and with~~  
 2 ~~the advice and consent of the Senate~~ hired by the Commissioner of Agriculture and shall serve  
 3 at the will and pleasure of the ~~Governor~~ commissioner. The director shall be a graduate of a  
 4 school of forestry accredited by the Society of American Foresters and have a minimum of ten  
 5 years' experience in forest management. The director shall be paid an annual salary as provided  
 6 in §6-7-2a of this code: *Provided*, That the director's salary shall be paid solely from budget  
 7 appropriations to the division.

## **ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING OPERATIONS.**

### **§19-1B-3. Definitions.**

1           (a) "Best management practices" means sediment control measures, structural or  
 2 nonstructural, used singly or in combination, to reduce soil runoff from land disturbances  
 3 associated with commercial timber harvesting.

4           (b) "Chief" means the Director of the Division of Water and Waste Management of the  
 5 Department of Environmental Protection, or his or her designee.

6           (c) "Director" means the Director of the Division of Forestry of the Department of  
 7 ~~Commerce~~ Agriculture or his or her designee.

8           (d) "Operator" means any person who conducts timbering operations.

9           (e) "Timbering operation," or the plural, means activities directly related to the severing or

10 removal of standing trees from the forest as a raw material for commercial processes or purposes.  
11 For the purpose of this article, timbering operations do not include the severing of evergreens  
12 grown for and severed for the traditional Christmas holiday season; the severing of trees  
13 incidental to ground-disturbing construction activities, including well sites, access roads and  
14 gathering lines for oil and natural gas operations; the severing of trees for maintaining existing, or  
15 during construction of, rights-of-way for public highways or public utilities or any company subject  
16 to the jurisdiction of the Federal Energy Regulatory Commission unless the trees so severed are  
17 being sold or provided as raw material for commercial wood product purposes; or the severing of  
18 trees by an individual on the individual's own property for his or her individual use provided that  
19 the individual does not have the severing done by a person whose business is the severing or  
20 removal of trees.

21 (f) "Sediment" means solid particulate matter, usually soil or minute rock fragments,  
22 moved by wind, rainfall or snowmelt into the streams of the state.

## **ARTICLE 12A. LAND DIVISION.**

### **§19-12A-5. Powers, duties and responsibilities of commission.**

1 (a) On or before July 1, 1990, the commission shall meet and confer with respect to the  
2 development of a management plan to determine the optimum use or disposition of all institutional  
3 farms, at which time the farm management director shall provide the commission with a complete  
4 inventory of all institutional farms, and such information relating to easements, mineral rights,  
5 appurtenances, farm equipment, agricultural products, livestock, inventories and farm facilities as  
6 may be necessary to develop such management plan. The commission shall complete and  
7 provide to the Governor a management plan, which plan shall set forth the objectives of the  
8 commission with respect to institutional farms, the criteria by which the commission shall  
9 determine the optimum use or disposition of such property, and determinations as to whether  
10 each institutional farm shall be used in production, sold, or leased, in whole or in part. Prior to the  
11 adoption of any plan, the commission shall consult with the secretaries of the various departments

12 of state government and shall request from ~~such~~ the secretaries suggestions for land use and  
13 resource development on farm commission lands. On or before December 1, 1990, such  
14 management plan shall be presented to the Legislature, by providing a copy to the President of  
15 the Senate and the Speaker of the House of Delegates. The commission may confer with any  
16 other agency or individual in implementing and adjusting its management plan. The management  
17 plan established pursuant to this subsection may be amended, from time to time, as may be  
18 necessary.

19 (b) The commission shall manage its institutional farms, equipment and other property in  
20 order to most efficiently produce food products for state institutions and shall implement the intent  
21 of the Legislature as set forth by this article. From the total amount of food, milk and other  
22 commodities produced on institutional farms, the commission shall sell, at prevailing wholesale  
23 prices, and each of the institutions under the control of the bureau of public health and the Division  
24 of Corrections shall purchase, a proportionate amount of these products based on the dietary  
25 needs of each institution.

26 (c) If requested by the Commissioner of Corrections, the commission may authorize the  
27 Division of Corrections to operate a farm or other enterprise using inmates as labor on such lands.  
28 The Commissioner of Corrections is responsible for the selection, direction and supervision of the  
29 inmates and shall assign the work to be performed by inmates.

30 (d) The commission is hereby authorized and empowered to:

31 (1) Lease to public or private parties, for purposes including agricultural production or  
32 experimentation, public necessity, or other purposes permitted by the management plan, any  
33 land, easements, equipment, or other property, except that property may not be leased for any  
34 use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous  
35 materials as identified by the Commissioner of Agriculture be used or stored upon ~~such~~ the  
36 property unless all applicable state and federal permits necessary are obtained. Any lease for an  
37 annual consideration of \$1,000 or more shall be by sealed bid auction and the commission shall

38 give notice of such auction by publication thereof as a Class II-0 legal advertisement in compliance  
39 with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication is  
40 the county in which the property to be leased is located;

41 (2) Transfer to the public land corporation land designated in its management plan as land  
42 to be disposed of, which land shall be sold, exchanged or otherwise transferred pursuant to §20-  
43 1A-4 and §20-1A-5 of this code: *Provided*, That the net proceeds of the sale of farm commission  
44 lands shall be deposited in the General Revenue Fund of the state: *Provided, however*, That no  
45 sale may be concluded until on or after March 15, 1991, except with respect to: (A) Properties  
46 located at institutions closed on or before the effective date of this section, March 10, 1990; or (B)  
47 properties conveyed to or from the Farm Management Commission to or from any other entity in  
48 order to facilitate the construction of a regional jail or correctional facility by the Regional Jail and  
49 Correctional Facilities Authority or the State Building Commission, with the decision to execute  
50 any such conveyance being solely within the discretion of, and at the direction of, the Regional  
51 Jail and Correctional Facilities Authority;

52 (3) Develop lands to which it has title for the public use including forestation, recreation,  
53 wildlife, stock grazing, agricultural production, rehabilitation and/or other conservation activities  
54 and may contract or lease for the proper development of timber, oil, gas or mineral resources,  
55 including coal by underground mining or by surface mining where reclamation as required by  
56 specifications of the Division of Environmental Protection will increase the beneficial use of such  
57 property. Any such contract or lease shall be by sealed bid auction as provided for in subdivision  
58 (1) above;

59 (4) Exercise all other powers and duties necessary to effectuate the purposes of this  
60 article.

61 (e) Notwithstanding the provisions of subsection (d) herein, no timberland may be leased,  
62 sold, exchanged or otherwise disposed of unless the Division of Forestry of the Department of  
63 ~~Commerce, labor and environmental resources~~ Agriculture certifies that there is no commercially

64 salable timber on the timberland, an inventory is provided, an appraisal of the timber is provided,  
65 and the sale, lease, exchange or other disposition is accomplished by the sealed bid auction  
66 procedure provided above in subdivisions (1) or (2), as applicable.

67 (f) The commission shall promulgate, pursuant to chapter twenty-nine-a of this code, rules  
68 and regulations relating to the powers and duties of the commission as enumerated in this section.

NOTE: The purpose of this bill is to transfer the Division of Forestry and its authorities, powers and duties from the Department of Commerce to the Department of Agriculture.

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