

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 524**

BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Government

Organization; reported on February 11, 2022]

1 A BILL to repeal §10-1-12, §10-1-13, §10-1-14, §10-1-14a, §10-1-15, §10-1-16, §10-1-17, §10-1-  
2 18, §10-1-18a, §10-1-19, §10-1-20, §10-1-21, §10-1-22, §10-1-23, and §10-1-24 of the  
3 Code of West Virginia, 1931, as amended; to repeal §29-27-1, §29-27-2, §29-27-3, §29-  
4 27-4, §29-27-5, and §29-27-6 of said code; to amend and reenact §5F-2-1 of said code;  
5 to amend and reenact §29-1-1 of said code; and to amend said code by adding thereto  
6 two new sections, designated §29-1-8c and §29-1-8d, all relating to placing the duties and  
7 functions of certain boards and commissions under the Department of Arts, Culture, and  
8 History; repealing certain sections related to the powers and authority of the State Library  
9 Commission; creating a state library section in the Department of Arts, Culture, and  
10 History; amending the makeup of the State Library Commission; providing for appointment  
11 of state library section director; establishing powers and duties of the state library section;  
12 providing for powers and duties of State Library Commission; creating National Coal  
13 Heritage Area Commission; providing for makeup of National Coal Heritage Area  
14 Commission; setting forth powers and duties of National Coal Heritage Area Commission;  
15 and repealing article related to National Coal Heritage Area Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development;

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

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

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

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

47 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of  
48 this code ~~and the State Library Commission provided in §10-1-1 *et seq.* of this code are each~~  
49 ~~continued as separate independent agencies~~ is continued as a separate independent agency  
50 within the Department of Arts, Culture, and History, which shall provide administrative support for  
51 ~~both entities~~ the authority.

52 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is  
53 continued as a separate independent agency within the Executive Branch as the Department of  
54 Arts, Culture, and History. All references throughout this code to the “Division of Culture and  
55 History” means the “Department of Arts, Culture, and History”.

56 (g) The following agencies and boards, including all of the allied, advisory, and affiliated  
57 entities, are transferred to the Department of Environmental Protection for purposes of

58 administrative support and liaison with the Office of the Governor:

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

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

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

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

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

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

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

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

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

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

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

74 (4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

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

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

77 (7) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

78 (i) The following agencies and boards, including all of the allied, advisory, affiliated, or  
79 related entities and funds associated with any agency or board, are incorporated in and  
80 administered as a part of the Department of Homeland Security:

81 (1) West Virginia State Police;

82 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and  
83 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided, That*

84 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule  
85 promulgated thereunder, a reference is made to the Division of Homeland Security and  
86 Emergency Management, it shall be construed to mean the Division of Emergency Management;

87 (3) Division of Administrative Services;

88 (4) Division of Corrections and Rehabilitation;

89 (5) Fire Commission;

90 (6) ~~The~~ State Fire Marshal;

91 (7) Board of Probation and Parole;

92 (8) The West Virginia Fusion Center;

93 (9) ~~The~~ Division of Protective Services; and

94 (10) Any other agency or entity hereinafter established within the Department of Homeland  
95 Security by an act of the Legislature.

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

99 (1) Tax Division provided in §11-1-1 *et seq.* of this code;

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

101 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of  
102 this code;

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

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

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

107 (7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;

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

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

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

111 (11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and

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

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

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

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

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

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

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

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

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

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

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

129 (n) Except for powers, authority, and duties that have been delegated to the secretaries  
130 of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards  
131 and the membership, terms, and qualifications of members of the boards are not affected by the  
132 enactment of this chapter. All boards that are appellate bodies or are independent decision  
133 makers may not have their appellate or independent decision-making status affected by the  
134 enactment of this chapter.

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

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

148 (q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this  
149 code is continued as a separate independent agency within the Executive Branch.

150 (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued  
151 as a separate independent agency within the Executive Branch.

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

**ARTICLE 1. PUBLIC LIBRARIES.**

**§10-1-12. State Library Commission.**

1 [Repealed.]

**§10-1-13. State Library Commission – officers.**

1 [Repealed.]



**§10-1-14. Same. – Powers and duties.**

1 [Repealed.]

**§10-1-14a. West Virginia Program for Open Education Resources; material description.**

1 [Repealed.]

**§10-1-15. State Library Commission – Disposition of monetary gifts.**

1 [Repealed.]

**§10-1-16. Regional libraries and library areas – Establishment and location.**

1 [Repealed.]

**§10-1-17. Regional libraries and library areas – Referral of plan to county courts; action on; alteration of plan.**

1 [Repealed.]

**§10-1-18. Regional libraries and library areas –Powers of West Virginia Library Commission.**

1 [Repealed.]

**§10-1-18a. Establishment of state publications; designation clearinghouse; definitions; powers of West Virginia Library Commission; designations by state agencies.**

1 [Repealed.]

**§10-1-19. Regional libraries and library areas – Transfer of certain libraries to Library Commission.**

1 [Repealed.]

**§10-1-20. Aid to libraries by library Commission.**

1 [Repealed.]

**§10-1-21. Collection of and preservation of library data; surveys; employment of personnel; use of data.**

1 [Repealed.]

**§10-1-22. Confidential nature of certain library records.**

1 [Repealed.]

**§10-1-23. Library Survey; status report; and ten-year plan.**

1 [Repealed.]

**§10-1-24. Library Facilities Improvement Fund.**

1 [Repealed.]

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

**ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

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

1 (a) The Division of Culture and History and the office of Commissioner of Culture and  
2 History heretofore created are hereby continued as the Department of Arts, Culture, and History.  
3 The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the  
4 Curator of Arts, Culture, and History, who shall be the chief executive officer of the department  
5 and shall be paid an annual salary as provided in §6-7-2a of this code. The curator so appointed  
6 shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science, or a  
7 related field; or (2) four years' experience in the administration of museum management, public  
8 administration, arts, history, or a related field.

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

10 (1) The arts section;

11 (2) The archives and history section;

12 (3) The museums section;

13 (4) The historic preservation section; ~~and~~

14 (5) The state library section;

15 (6) The National Coal Heritage Area Commission; and

16 (7) The administrative section.

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

18 (1) A Commission on the Arts; ~~and~~

19 (2) A Commission on Archives and History; and

20 (3) A Library Commission.

21 (d) The curator shall exercise control and supervision of the department and shall be  
22 responsible for the projects, programs, and actions of each of its sections. The purpose and duty  
23 of the department is to advance, foster, and promote the creative and performing arts and crafts,  
24 including both indoor and outdoor exhibits and performances; to advance, foster, promote,  
25 identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and  
26 significant architectural sites, structures, and objects in the state; to encourage the promotion,  
27 preservation, and development of significant sites, structures, and objects through the use of  
28 economic development activities such as loans, subsidies, grants, and other incentives; to  
29 coordinate all cultural, historical, and artistic activities in state government and at state-owned  
30 facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of  
31 historical interest or importance; and, in general, to do all things necessary or convenient to  
32 preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of  
33 these purposes and duties, the curator shall report directly to the Governor as a curator for both  
34 the intrinsic and extrinsic value for individuals, communities, and the economy of the arts,  
35 humanities, culture, and history in West Virginia. As such, the curator shall represent the  
36 Department of Arts, Culture, and History as a full participating member in meetings of the  
37 secretaries of the departments created in §5F-1-2 of this code that are convened at the call of the  
38 Governor.

39 (e) The department shall have jurisdiction and control and may set and collect fees for the  
40 use of all space in the building presently known as the West Virginia Science and Culture Center,  
41 including the deck and courtyards forming an integral part thereof; the building presently known  
42 as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances

43 thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14 of this code; and  
44 any other sites as may be transferred to or acquired by the department. Notwithstanding any  
45 provision of this code to the contrary, ~~including the provisions of §5B-1-1 et seq. of this code,~~  
46 beginning on and after July 1, 2018, the department shall have responsibility for, and control of,  
47 all visitor touring and visitor tour guide activities within the ~~state~~ Capitol Building at Charleston.

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

53 (g) Nothing in this article or any other provision of this code may be construed to mean  
54 that the Department of Arts, Culture, and History is an executive department created pursuant to  
55 §5F-1-2 of this code, nor that the curator is the secretary of an executive department created  
56 pursuant to that section.

**§29-1-8c. State Library Section.**

1 (a) There is hereby created a West Virginia State Library Section under the Department  
2 of Arts, Culture, and History.

3 (b) The State Library Commission is continued as an advisory council to support the West  
4 Virginia State Library Section, and shall consist of the Curator of the Department of Arts, Culture,  
5 and History as an ex officio voting member and six voting members.

6 (1) The Governor shall appoint, by and with the advice and consent of the Senate, the  
7 voting members of the commission each for a term of four years:

8 (A) No more than three appointed members may reside in the same congressional district;

9 (B) The Governor shall make the initial appointment of State Library Commission  
10 members for staggered terms as follows: Two members, one from each congressional district, for  
11 a term of two years; two members, one from each congressional district, for a term of three years;

12 and two members, one from each congressional district, for a term of four years; and

13 (C) Three appointed members of the commission shall be women and three appointed  
14 members shall be men.

15 (2) No member of the State Library Commission may receive compensation for services  
16 rendered, nor be engaged or interested in the publishing business.

17 (3) On or before the expiration of the terms for which the members are appointed, the  
18 Governor shall appoint their successors.

19 (b) The Curator of the Department of Arts, Culture, and History shall appoint a library  
20 section director, with the advice and consent of the State Library Commission, to carry out the  
21 duties and functions of the State Library Section outlined in this section through the Department  
22 of Arts, Culture, and History library section. The library section director shall have at least the  
23 following qualifications: A master's degree from an American Library Association-accredited  
24 program in a library-related discipline and three years of management or administrative work  
25 experience in a library. The library section director shall also serve as the Secretary of the State  
26 Library Commission for the purpose of board meetings.

27 (c) The State Library Commission shall advise the curator and the library section director  
28 on carrying out certain duties and functions of the State Library Section, as provided in this  
29 section.

30 (d) *General authority of the State Library Section.* —

31 (1) The State Library Section shall provide assistance, advice, and counsel to all school,  
32 state-institutional, free and public libraries, and to all communities in the state which may propose  
33 to establish libraries, as to the best means of establishing and administering them, selecting and  
34 cataloging books, and other details of library management, and may send any of its members to  
35 aid in organizing such libraries or assist in the improvement of those already established.

36 (2) The State Library Section may:

37 (A) Receive gifts of money, books, or other property which may be used or held for the

38 purpose or purposes given; and may purchase and operate traveling libraries under such  
39 conditions and rules as the commission deems necessary to protect the interests of the state and  
40 best increase the efficiency of the service it is expected to render the public.

41 (B) Purchase suitable books for traveling libraries and distribute them as needed to those  
42 persons and places in the state without adequate public library service.

43 (C) Collect books and other suitable library matter and distribute the same among state  
44 institutions desiring the same.

45 (D) Issue and offer for sale printed material, such as lists and circulars of information, and  
46 in the publication thereof may cooperate with other state library commissions and libraries, in  
47 order to secure the more economical administration of the work for which it was formed.

48 (E) Conduct courses of library instruction and hold librarians' institutes in various parts of  
49 the state.

50 (F) Perform such other services on behalf of public libraries as it may consider to be in the  
51 best interest of the state.

52 (e) West Virginia Program for Open Education Resources; material description. —

53 (1) The State Library Section shall establish and maintain the West Virginia Program for  
54 Open Education Resources to encourage and facilitate the use of open education resource  
55 materials in both higher education and kindergarten through grade 12 in West Virginia schools.

56 (2) "Open education resource materials" means teaching, learning, and resource materials  
57 in any medium, digital or otherwise, that reside in the public domain or have been released under  
58 an open license that permits low-cost access, use, adaptation, and redistribution by others with  
59 no or limited restrictions.

60 (3) The State Library Commission may consult with the Higher Education Policy  
61 Commission, the West Virginia Council for Community and Technical College Education, and the  
62 State Superintendent of Schools, or his or her designee, to:

63 (A) Ascertain what institutions or faculty are currently using open education resource

64 material;

65 (B) Identify material currently associated with core general education courses and readily  
66 available for use by faculty and institutions;

67 (C) Identify any statutory or other impediments which interfere with selection and use of  
68 open education resource materials by administrators or teachers at all levels of instruction in West  
69 Virginia schools;

70 (D) Identify sources of potential grants for funding for teachers and institutions to use open  
71 education resource materials for classes and courses, and propose a competitive application  
72 system to award grant funding for those faculty and institutions seeking to use the open education  
73 resource materials;

74 (E) Establish a digital clearinghouse that will function as a publicly accessible database  
75 for open education resource material;

76 (F) Develop strategies to leverage further open education resource material to benefit  
77 higher education institutions and school systems, as well as private and foundation support for  
78 the project; and

79 (G) Report no later than July 1 of each year the program's findings, progress, and  
80 recommendations to the State Library Section, the Governor, and the chairs of the Legislature's  
81 House and Senate Committees on Education.

82 (f) State Library Section--disposition of monetary gifts. —

83 (1) If any sums of money are received by the State Library Section as gifts, they shall be  
84 paid into the State Treasury and used exclusively for carrying out the provisions of this section,  
85 and paying expenses of the State Library Section and the State Library Commission.

86 (2) The State Library Section shall expend no sums unless they are available by gift,  
87 appropriation, or otherwise.

88 (g) Regional libraries and library areas -- establishment and location. —

89 (1) The State Library Commission is hereby authorized to develop a plan for the

90 establishment and location of regional libraries, and library areas throughout the state, based on  
91 a detailed survey to be made by the State Library Commission of the needs of the various  
92 localities of the state. A region shall include two or more counties.

93 (2) On completion of such survey of any proposed region, the State Library Commission  
94 shall report their findings to the State Library Section and the state library director, who may refer  
95 the proposal to the county commissions or councils of all the counties included in such proposed  
96 region. The county commissions or councils may act upon such proposal by resolution, and the  
97 votes of a majority of each of the county commissions or councils of the counties included in the  
98 proposed region shall be necessary for the adoption of such proposal. The proposal may be  
99 amended and resubmitted as necessary.

100 (3) The State Library Section may, with advice and input from the State Library  
101 Commission, and as the state library director may consider necessary or beneficial:

102 (A) Establish, maintain, and operate a public library for the region;

103 (B) Appoint a librarian and the necessary assistants, and fix their compensation, such  
104 appointments to be based upon merit and efficiency as determined by the state library section  
105 director. The librarian shall hold a certificate from an approved school of library science and shall  
106 have had not less than three years of practical experience in library work. The state library section  
107 director may also remove said librarian and other assistants;

108 (C) Purchase books, periodicals, equipment, and supplies;

109 (D) Purchase sites and erect buildings, or lease suitable quarters, and have supervision  
110 and control of that property;

111 (E) Borrow books from and lend books to other libraries;

112 (F) Enter into contracts to receive service from, or give service to, libraries within or without  
113 the region and give service to municipalities without the region that have no libraries, or cooperate  
114 with and aid generally, without such contracts, public school, institutional, and other libraries;

115 (G) Make such bylaws, rules, and regulations not inconsistent with this article as may be



116 expedient for the government of regional library areas and the regional libraries therein, and for  
117 the purpose of carrying out the provisions of this article; and

118 (H) Accept for the State of West Virginia any appropriations of money that may hereafter  
119 be made out of the federal treasury by an act or acts of Congress and to disburse such funds for  
120 the purpose of carrying out the provisions of this article, in accordance with §18-10-11 and §18-  
121 10-12 of this code.

122 (h) Aid to libraries by State Library Section.—

123 (1) The State Library Section may render such aid and assistance, financial, advisory or  
124 otherwise, to public, school, county, or regional libraries, whether established or maintained by  
125 the State Library Section or not, under such conditions and rules and regulations as the State  
126 Library Section may determine necessary to further the interests of the state and best increase  
127 the efficiency of the service it is expected to render the public.

128 (2) The State Library Commission may review and analyze the status of libraries across  
129 the state and advise the State Library Section on projects and libraries for which it has determined  
130 the development and support of will further the education of the people of the state as a whole  
131 and will thereby aid in the discharge of the responsibility of the state to encourage and foster  
132 education. The West Virginia Library Section may pay over and contribute to any board of library  
133 directors created and maintained pursuant to the provisions of this section or any special act of  
134 the Legislature such sum or sums of money as may be available from funds included in  
135 appropriations made for the State Library Section for that purpose.

136 (i) Collection and preservation of library data; surveys; employment of personnel; use of  
137 data.

138 (1) The State Library Section may collect and preserve statistics and other data,  
139 concerning libraries of any sort located within this state; to make surveys relating to the needs or  
140 conditions of such libraries or the library conditions of any city, town, county, regional library area,  
141 or other subdivision of this state; and to publish the results and findings thereof in accordance

142 with the provisions of this section.

143 (2) The State Library Section may employ necessary personnel for any of these purposes.

144 (3) Such data, surveys, and findings of the State Library Section shall be available to all  
145 school, public, institutional, regional, and other libraries within this state, whether proposed or  
146 established.

147 (j) Confidential nature of certain library records.—

148 (1) Circulation and similar records of any public library in this state which identify the user  
149 of library materials are not public records but shall be confidential and may not be disclosed  
150 except:

151 (A) To members of the library staff in the ordinary course of business, including paid  
152 employees and unpaid volunteers upon completing a written confidentiality agreement which shall  
153 prevent disclosure of circulation records, personal information, and similar records of any public  
154 library except to the extent allowed under this subsection and obtaining written permission from  
155 the library director of the library system wherein he or she will be working;

156 (B) Upon written consent of the user of the library materials or the user's parents or  
157 guardian if the user is a minor or ward; or

158 (C) Upon appropriate court order or subpoena.

159 (2) Any disclosure authorized by subdivision (1) of this subsection, or any unauthorized  
160 disclosure of materials made confidential by subdivision (1), does not in any way destroy the  
161 confidential nature of that material, except for the purpose for which an authorized disclosure is  
162 made. A person disclosing material as authorized by subdivision (1) of this subsection is not liable  
163 therefor.

164 (k) Library Facilities Improvement Fund.—

165 (1) There is continued in the State Treasury a special fund known as the Library Facilities  
166 Fund. Expenditures from the fund shall be for the purposes set forth in this section. The fund shall  
167 be administered by the State Library Section.

- 168           (2) The fund shall consist of moneys received from the following sources:
- 169           (A) All appropriations made by the Legislature to the fund;
- 170           (B) Any moneys available from sources outside the State Library Section;
- 171           (C) Repayment of loans made by the State Library Section pursuant to this section; and
- 172           (D) All interest and other income earned from investment of moneys in the fund.
- 173           (3) The State Library Section shall utilize moneys in the fund to support public library
- 174 facilities construction, renovation, maintenance, and improvement projects. The State Library
- 175 Section shall evaluate potential recipient projects of funds from the fund on a competitive basis.
- 176           (A) The State Library Section may provide loans to public libraries to support energy
- 177 savings and critical maintenance projects with moneys in the fund.
- 178           (B) With the exception of loans made under this section, the State Library Section may not
- 179 expend any money from the fund toward a particular project unless the proposed expenditure is
- 180 matched on a dollar-for-dollar basis by other sources.
- 181           (4) The State Library Section shall propose a rule for legislative approval in accordance
- 182 with §29A-3-1 et seq. of this code to implement the provisions of this section. The rule shall
- 183 contain at least the following:
- 184           (A) A process for submitting and reviewing proposals;
- 185           (B) The content of proposals;
- 186           (C) Criteria for evaluating proposals; and
- 187           (D) Other provisions the State Library Section considers necessary to administer the
- 188 program in accordance with this section.
- 189           (5) Any balance, including accrued interest and any other returns, in the fund at the end
- 190 of each fiscal year will not expire to the General Revenue Fund but remain in the fund and be
- 191 expended for the purposes provided by this section.

192 (6) In any calendar year, the State Library Section may not allocate an amount in excess  
193 of four percent of the balance of the fund on December 31 of the immediately preceding calendar  
194 year for administrative expenses.

195 (7) The State Library Section may invest any or all of the balance of the fund with the  
196 state's Consolidated Investment Fund.

**§29-1-8d National Coal Heritage Area Commission.**

1 (a)(1) The National Coal Heritage Area originally was a partnership project of the National  
2 Park Service and the State of West Virginia as represented by the Division of Tourism and the  
3 Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28  
4 experts from the state and the region to the National Coal Heritage Area Steering Committee to  
5 provide guidance in the development of the National Coal Heritage Area, and in 2002 the West  
6 Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an  
7 independent board, to serve as the management entity for the National Coal Heritage Area.

8 (2) The West Virginia Legislature finds that there continues to be a significant need for a  
9 public body to promote and enhance historic preservation, tourism, and economic development  
10 activities that relate to the state's history as a coal-producing state within the counties of Boone,  
11 Cabell, Fayette, Lincoln, Logan, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Summers,  
12 Wayne, and Wyoming.

13 (3) The Legislature additionally finds that the state entity previously known as the National  
14 Coal Heritage Area Authority may more effectively serve the people of West Virginia through the  
15 Department of Arts, Culture, and History as the National Coal Heritage Area Commission, where  
16 it will continue to work with the landowners, county officials, and community leaders, state and  
17 federal government agencies, and other interested parties to enable and facilitate the  
18 development of the National Coal Heritage Area will greatly assist in the realization of these  
19 potential benefits.

20 (b) Unless the context clearly requires a different meaning, the terms used in this section

21 have the following meanings:

22 (1) "Commission" means the National Coal Heritage Area Commission;

23 (2) "Department" means the Department of Arts, Culture, and History; and

24 (3) "National Coal Heritage Area" means and comprises the counties of Boone, Cabell,  
25 Fayette, Lincoln, Logan, Kanawha, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and  
26 Wyoming.

27 (c) *Creation; appointment of commission; terms; expenses; executive director:*

28 (1) There is hereby created the National Coal Heritage Area Commission which is a  
29 division of the Department of Arts, Culture, and History, existing for the purposes of providing  
30 direction to and assistance with state and federal historic preservation, economic development,  
31 and tourism projects in the National Coal Heritage Area and aiding in the development and  
32 implementation of integrated cultural, historical, and land resource management policies and  
33 programs in order to retain, enhance, and interpret the significant values of the lands, waters, and  
34 structures in the National Coal Heritage Area.

35 (2) The commission shall be composed of, at a minimum, 19 members as follows:

36 (A) The following six persons shall be nonvoting members, and shall serve by virtue of  
37 their offices, and may be represented at meetings of the commission by designees:

38 (i) The Curator of the Department of Arts, Culture, and History, or his or her designee;

39 (ii) The Secretary of the Department of Environmental Protection, or his or her designee;

40 (iii) The Secretary of the Department of Tourism, or his or her designee;

41 (iv) The Secretary of the Department of Economic Development, or his or her designee;

42 (v) The State Superintendent of Schools, or his or her designee; and

43 (vi) The Director of the Division of Natural Resources, or his or her designee;

44 (B) The remaining 13 members shall be appointed for terms of four years by the Governor  
45 with the advice and consent of the Senate. The county commission of each county within the  
46 National Coal Heritage Area may submit to the Governor a list of three candidates to be

47 considered for board appointment. Of the 13 members appointed by the Governor, each  
48 candidate must live or work within the subject county and the appointees shall be representative  
49 of the tourism industry, the coal industry, the United Mine Workers of America, economic  
50 development activity, historic preservation activity, or higher education. Additional counties may  
51 submit names of individuals fitting the above criteria for consideration as ex-officio, non-voting,  
52 board membership;

53 (C) The terms of office shall be four years and shall expire on June 30. No appointed  
54 member may serve more than two consecutive full terms. A member shall continue to serve until  
55 his or her successor has been appointed and qualified;

56 (D) If an appointed member is unable to complete a term, the Governor shall appoint a  
57 person to complete the unexpired term. Each vacancy occurring on the board must be filled within  
58 60 days after the vacancy is created;

59 (E) Any appointed member of the board shall immediately and automatically forfeit his or  
60 her membership on the board if he or she becomes a nonresident of the county, or ceases to be  
61 employed in the county, from which he or she was appointed;

62 (F) Each member of the board shall serve without compensation, but shall receive  
63 expense reimbursement for all reasonable and necessary expenses actually incurred in the  
64 performance of the duties of the office, in the same amount paid to members of the Legislature  
65 for their interim duties as recommended by the Citizens Legislative Compensation Commission  
66 and authorized by law: *Provided*, That no member may be reimbursed for expenses paid by a  
67 third party.

68 (3) The Curator of the Department of Arts, Culture, and History shall appoint a director to  
69 carry out the actions of the board, which appointment may be in addition to other duties, to serve  
70 at the will and pleasure of the curator. The director may employ necessary personnel and retain  
71 such temporary consultants or technicians as may be necessary for any special study or survey  
72 consistent with the provisions of this section. The director shall carry out plans to implement the

73 provisions of this section and to exercise those powers. The director shall prepare annually, in  
74 consultation with the board, a budget for the commission.

75 (d) Board; quorum; chairperson; bylaws.—

76 (1) The board is the governing body of the National Coal Heritage Area Commission, and  
77 may exercise all the powers given the commission in this section.

78 (2) The director shall serve as the board chairperson. The board shall meet at such times  
79 as shall be specified by the chairperson, but in no case less than quarterly. A majority of seven  
80 appointed members shall constitute a quorum for the transaction of business.

81 (3) There shall be a standing committee of the National Coal Heritage Area Commission  
82 known as the Coal Heritage Trail Committee composed of the chairperson and members of the  
83 National Coal Heritage Area from the counties through which the Coal Heritage Trail passes.  
84 These counties are Mercer, McDowell, Wyoming, Raleigh, and Fayette. This standing committee  
85 shall be responsible for making recommendations to the full board regarding development and  
86 promotion of the Coal Heritage Trail, a national scenic byway.

87 (4) The board shall prescribe, amend, and repeal bylaws and rules governing the manner  
88 in which the business of the commission is conducted, shall keep a record of its proceedings, and  
89 shall review and approve an annual budget. The board may appoint such officers as necessary  
90 to carry out its meetings.

91 (e) Powers of commission.—

92 The commission may exercise all powers necessary or appropriate to carry out the  
93 purposes of this section, including, but not limited to, the power:

94 (1) To assist in the development and implementation of integrated cultural, historical, and  
95 land resource management policies and programs in the National Coal Heritage Area;

96 (2) To advise the executive director of the National Coal Heritage Commission in retaining,  
97 enhancing, and interpreting the significant values of the lands, waters, and structures of the area;

98 (3) To enter into partnerships with various preservation groups, landmark commissions,

99 certified local governments, county commissions, and other entities to undertake the preservation,  
100 restoration, maintenance, operation, development, interpretation, and promotion of lands and  
101 structures that possess unique and significant historic, architectural, and cultural value associated  
102 with the coal mining heritage of the national coal heritage area;

103 (4) To make, amend, repeal, and adopt bylaws for the management and regulation of its  
104 affairs;

105 (5) To appoint officers, agents, and employees, and to contract for and engage the  
106 services of consultants;

107 (6) To execute contracts necessary or convenient for carrying on its business, including  
108 contracts with any other governmental agency of this state or of the federal government, or with  
109 any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

110 (7) Without in any way limiting any other subdivision of this section, to accept grants and  
111 loans from and enter into contracts and other transactions with any federal agency;

112 (8) To maintain an office at such places within the state as it may designate;

113 (9) To accept gifts or grants of property, funds, money, materials, labor, supplies, or  
114 services from the federal government or from any governmental unit, or any person, firm, or  
115 corporation;

116 (10) To construct, reconstruct, improve, maintain, repair, operate, and manage certain  
117 facilities in the National Coal Heritage Area as may be determined by the commission;

118 (11) To enter into contract with landowners and other persons holding an interest in the  
119 land being used for its recreational facilities to hold those landowners and other persons harmless  
120 with respect to any claim in tort growing out of the use of the land for public recreation or growing  
121 out of the public activities operated or managed by the commission from any claim except a claim  
122 for damages proximately caused by the willful or malicious conduct of the landowner or other  
123 person or any of his or her agents or employees; and

124 (12) To assess and collect a reasonable fee from those persons who use the designated



125 facilities which are part of the national coal heritage area, and to retain and utilize that revenue  
126 for any purposes consistent with this article.

127 (f) Continuation of legal obligations. —

128 Nothing in this section may be considered as superseding, amending, modifying, or  
129 repealing any contract or agreement entered into for the benefit of the National Coal Heritage  
130 Area prior to the date of enactment of this section. All obligations, contracts, grants, and assets  
131 currently belonging to the Coal Heritage Highway Authority and the National Coal Heritage Area  
132 Authority shall be transferred to and become the responsibility and property of the National Coal  
133 Heritage Area Commission.

## **ARTICLE 27. NATIONAL COAL HERITAGE AREA AUTHORITY.**

### **§29-27-1. Legislative findings.**

1 [Repealed.]

### **§29-27-2. Definitions.**

1 [Repealed.]

### **§29-27-3. Creation; appointment of board; terms; expenses; executive director.**

1 [Repealed.]

### **§29-27-4. Board; quorum; chairperson; bylaws.**

1 [Repealed.]

### **§29-27-5. Powers of authority.**

1 [Repealed.]

### **§29-27-6. Continuation of legal obligations.**

1 [Repealed.]

CS for SB 524