WEST virginia legislature

2022 regular session

Introduced

Senate Bill 617

By Senator Maynard

[Introduced February 11, 2022; referred
 to the Committee on Government Organization]

A BILL to amend and reenact §5-6-11a of the Code of West Virginia, 1931, as amended; to amend and reenact §5-11-5 of said code; to amend and reenact §5A-8-15 of said code; to amend and reenact §5B-2I-7 of said code; to amend and reenact §6C-3-1 of said code; to amend and reenact §10-1-12 of said code; to amend and reenact §11-13J-4a of said code; to amend and reenact §16-4C-5 of said code; to amend and reenact §16-5Z-2 of said code; to amend and reenact §16-52-3 of said code; to amend and reenact §17-4A-3 of said code; to amend and reenact §17-16A-3 of said code; to amend and reenact §17-16B-2 of said code; to amend and reenact §17-16C-4 of said code; to amend and reenact §18-2-1 of said code; to amend and reenact §18-11-1 of said code; to amend and reenact §18B-1B-2 of said code; to amend and reenact §22C-3-4 of said code; to amend and reenact §29-21-3b of said code; to amend §29-22-4 of said code; to amend and reenact §30-38-6 of said code; to amend and reenact §30-42-4 of said code; and to amend and reenact §31G-1-3 of said code, all relating to qualifications for members of boards, commissions, and other entities; reducing number of members of board of directors of nonprofit corporation operating and maintaining Clay Center for the Arts; revising qualifications for members of Human Rights Commission; establishing qualifications for members of Records Management and Preservation Board; revising qualifications for membership on Tourism Advisory Council; updating number of members of Public Employees Grievance Board who may be appointed from each congressional district; establishing number of members of Library Commission who are appointed from each congressional district; revising number of members of Neighborhood Investment Program Advisory Board from each congressional district; revising number of members of Emergency Medical Services Advisory Council appointed from any one congressional district; modifying requirements for membership on Coalition for Diabetes Management; establishing requirements for members of Coalition for Chronic Pain Management; revising membership of Complete Streets Advisory Board; establishing number of appointed members of Parkways Authority and recognizing reduction in number of congressional districts; altering composition of membership of Public Port Authority; establishing qualifications for appointed members of Public Transit Advisory Council; revising qualifications for appointment to West Virginia Board of Education; revising requirements for appointed members of Board of Governors; Altering composition of Higher Education Policy Commission; making technical changes to qualifications for appointment to Solid Waste Management Board; modifying membership of Indigent Defense Commission; providing for qualifications for appointment to State Lottery Commission; revising qualifications for appointment to Real Estate Appraiser Licensing and Certification Board; revising qualifications for appointment to Contractor Licensing Board; and establishing qualifications for membership on Broadband Enhancement Council.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 6. STATE BUILDINGS.

§5-6-11a. Special power of commission to transfer or expend bond proceeds for capital improvements at institutions of higher education, state parks and the capitol complex and to construct and lease a center for arts and sciences of West Virginia; limitations; state building commission authorized to issue revenue bonds; fund created; use of funds to pay for development of education, arts, sciences, and tourism projects.

(a) The Legislature finds and declares that in order to attract new business and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the business prosperity and economic welfare of this state it is necessary to promote adequate higher education, arts, sciences, and tourism facilities, including infrastructure, for: (1) State-of-the-art educational opportunities for all citizens of this state; (2) tourism enhancements at state parks, the capitol complex or other tourism sites throughout the state; (3) hands-on arts and sciences training for the youth of West Virginia; and (4) programs using the performing arts as an educational tool. Therefore, in order to promote education, arts, sciences, and tourism, the Legislature finds that public financial support should be provided for constructing, equipping, improving, and maintaining capital improvement projects which promote education, arts, sciences, and tourism in this state.

(b) The state building commission shall, by resolution, in accordance with the provisions of this article, issue revenue bonds of the commission from time to time, to pay for a portion of the cost of constructing, equipping, improving, or maintaining capital improvement projects under this section or to refund the bonds, at the discretion of the authority. The principal amount of the bonds issued under this section shall not exceed, in the aggregate, $100 million. Any revenue bonds issued on or after January 1, 1996, which are secured by lottery proceeds shall mature at a time or times not exceeding 25 years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(c) There is hereby created in the State Treasury a special revenue fund named the education, arts, sciences, and tourism debt service fund into which shall be deposited on and after July 1, 1996, the amounts specified in §29-22-18 of this code. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section. The commission may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the education, arts, sciences, and tourism debt service fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of this article. The education, arts, sciences, and tourism debt service fund shall be pledged solely for the repayment of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing May 1, 1996, the commission shall certify to the State Lottery Director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the education, arts, sciences, and tourism debt service fund have been pledged, or will be pledged, for repayment pursuant to this section.

After the commission has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the education, arts, sciences, and tourism debt service fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(d) The commission shall expend $25 million of the bond proceeds for certified capital improvement projects at state institutions of higher education. For the purposes of certifying the projects which will receive funds from the bond proceeds, a committee shall be established and comprised of the Governor, or his or her designee, the secretary of the Department of Administration, the Secretary of the Department of Education and the Arts, the Chancellor of the University of West Virginia Board of Trustees, and the Chancellor of the Board of Directors of the State College System. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state institutions of higher education. The committee shall meet within 45 days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings, one of which must be held outside of Kanawha County. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least 14 days prior to the date of the public hearing. On or before September 15, 1996, the committee shall certify to the commission a list of those capital improvement projects at state institutions of higher education which will receive funds from the proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(e) The commission shall expend up to $26 million from the proceeds of the bonds authorized by this section to pay a portion of the costs of projects certified under this subsection for development, maintenance, or promotion of arts and sciences or constructing and equipping a center for arts and sciences of West Virginia located on a site acquired for that purpose. Any proceeds expended to pay a portion of project costs to construct and equip a center for arts and sciences of West Virginia shall not exceed 40 percent of the total cost of the project and permanent endowments for operation and maintenance, and bond proceeds shall not be expended until 60 percent of the total cost has been committed from sources other than bond proceeds. For the purposes of certifying the projects which will receive funds from the bond proceeds under this subsection, a committee shall be established and ~~comprised~~ composed of the Governor, or his or her designee, the secretary of the Department of Administration, the Director of the Division of Natural Resources, the Director of the West Virginia Development Office and a representative of the capitol building commission, other than the secretary of the Department of Administration, who shall be selected by the capitol building commission. The capitol building commission shall select its representative within 30 days of the effective date of this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding which projects should be certified. The committee shall meet within 45 days of the effective date of this section. Prior to making its determination, the committee shall conduct one public hearing on the projects to be certified under this subsection. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each ~~of the three~~ congressional ~~districts~~ district at least 14 days prior to the date of the public hearing. The committee shall make its determination as to whether bond proceeds will be expended for the purposes set forth in this subsection and the amount to be expended for each project, on or before June 15, 1996. Thereafter, the decision may not be altered or amended other than by legislative enactment. The commission is authorized to acquire by purchase or lease real property to be used as the site for a center for arts and sciences of West Virginia; and notwithstanding the provisions of §5-6-7 of this code, enter into a long-term lease agreement with a nonprofit corporation organized under the laws of this state for operation and maintenance of the center. The nonprofit corporation shall, as consideration for any long-term lease agreement, complete the construction and equipping of the center and demonstrate to the satisfaction of the commission its financial ability to operate and maintain the center during the term of the lease agreement. The nonprofit corporation shall have at least ~~nine~~ six members on its board of directors which are appointed by the Governor with the advice and consent of the Senate. Of the ~~nine~~ six appointed members, three shall be selected from each congressional district: *Provided,* That none of the appointed members shall be a resident of Kanawha County. The members appointed by the Governor with the advice and consent of the Senate shall serve on the board for three year staggered terms. Of the members first appointed by the Governor, one from each congressional district will serve a three-year term, one from each congressional district will serve a two-year term and one from each congressional district shall serve a one-year term.

(f) The commission shall expend the balance of the bond proceeds for certified projects at state parks, the capitol complex, or other tourism sites. The committee established in subsection (e) of this section shall certify to the commission on or before September 15, 1996, a list of those capital improvement projects at state parks, the capitol complex, or other tourism sites which will receive funds from the proceeds of bonds issued pursuant to this section. The committee shall meet as often as necessary and take recommendations from any source whatever regarding the capital improvement projects at state parks, the capitol complex, or other tourism sites in this state. The committee shall meet within 45 days of the effective date of this section. Prior to making its recommendations, the committee shall conduct at least two public hearings on the projects to be certified under this subsection, one of which must be held outside of Kanawha County. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each ~~of the three~~ congressional ~~districts~~ district at least 14 days prior to the date of the public hearing. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

ARTICLE 11. HUMAN RIGHTS COMMISSION.

§5-11-5. Composition; appointment, terms, and oath of members; compensation and expenses.

The commission shall be composed of nine members, all residents and citizens of the State of West Virginia and broadly representative of the several racial, religious, and ethnic groups residing within the state, to be appointed by the Governor, by and with the advice and consent of the Senate. Not more than five members of the commission shall be members of the same political party and ~~at least one member, but not more than three members, shall be~~ not more than five members shall be appointed from any one congressional district.

Members of the commission shall be appointed for terms of three years commencing on July 1, of the year of their appointments, except that the nine members first appointed hereunder shall be appointed for terms of from one to three years, respectively, so that the terms of three members of the commission will expire on June 30 of each succeeding year thereafter. Upon the expiration of the initial terms, all subsequent appointments shall be for terms of three years each, except that appointments to fill vacancies shall be for the unexpired term thereof. Members shall be eligible for reappointment. Before assuming and performing any duties as a member of the commission, each commission member shall take and subscribe to the official oath prescribed by section 5, article IV of the Constitution of West Virginia, which executed oath shall be filed in the office of the Secretary of State.

The members of the commission shall not receive a salary, but each appointed member shall be paid $50 per diem for actual time spent in the performance of duties under this article and shall be reimbursed for actual and necessary expenses incident to the performance of their duties, upon presentation of an itemized and sworn statement thereof. The foregoing per diem and reimbursement for actual and necessary expenses shall be paid from appropriations made by the Legislature to the commission.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT.

§5A-8-15. Records management and preservation of county records; alternate storage of county records; Records Management and Preservation Board; qualifications and appointment of members; reimbursement of expenses; staffing; rule-making authority; study of records management needs of state agencies; grants to counties.

The Legislature finds that the use of electronic technology and other procedures to manage and preserve public records by counties should be uniform throughout the state where possible.

(a) The governing body and the chief elected official of a county, hereinafter referred to as a county government entity, whether organized and existing under a charter or under general law, shall promote the principles of efficient records management and preservation of local records. A county governing entity may, as far as practical, follow the program established for the uniform management and preservation of county records as set out in rules proposed for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code as proposed by the Records Management and Preservation Board.

(b) In the event a county government entity decides to destroy or otherwise dispose of a county record, the county government entity may, prior to destruction or disposal thereof, offer the record to the director of Archives and History within the Department of Arts, Culture, and History for preservation of the record as a document of historical value. Unless authorized by the Supreme Court of Appeals, the records of courts of record and magistrate courts are not affected by the provisions of this section.

(c)(1) A preservation duplicate of a county government entity record may be stored in any format approved by the board in which the image of the original record is preserved in a form, including electronic file, in which the image is incapable of erasure or alteration and from which a reproduction of the stored record may be retrieved that truly and accurately depicts the image of the original county government record.

(2) Except for those formats, processes, and systems used for the storage of records on the effective date of this section, no alternate format for the storage of county government entity records described in this section is authorized for the storage of county government entity records unless the particular format has been approved pursuant to a legislative rule promulgated by the board in accordance with the provisions of chapter 29A of this code. The board may prohibit the use of any format, process, or system used for the storage of records upon its determination that the same is not reasonably adequate to preserve the records from destruction, alteration, or decay.

(3) Upon creation of a preservation duplicate that stores an original county government entity record in an approved format that is incapable of erasure or alteration and that may be retrieved in a format that truly and accurately depicts the image of the original record, the county government entity may destroy or otherwise dispose of the original in accordance with the provisions of §57-1-7c of this code.

(d) A Records Management and Preservation Board for county government entities is continued, to be composed of 11 members.

(1) Three members shall serve ex officio. One member shall be the curator of the Department of Arts, Culture, and History or designee who shall be the chair of the board. One member shall be the administrator of the Supreme Court of Appeals or designee. One member shall be the Chief Technology Officer or designee.

(2) The Governor shall appoint eight members of the board, with the advice and consent of the Senate. Not more than five appointments to the board may be from the same political party and ~~not more than three~~ four members ~~may~~ shall be appointed from ~~the same~~ each congressional district. Of the eight members appointed by the Governor:

(i) Five appointments shall be county elected officials, one of whom shall be a clerk of a county commission, one of whom shall be a circuit court clerk, one of whom shall be a county commissioner, one of whom shall be a county sheriff, and one of whom shall be a county assessor, to be selected from a list of 15 names. The names of three clerks of county commissions and three circuit court clerks shall be submitted to the Governor by the West Virginia Association of Counties. The names of three county commissioners shall be submitted to the Governor jointly by the West Virginia Association of Counties and the West Virginia County Commissioners Association. The names of three county sheriffs shall be submitted to the Governor by the West Virginia Sheriff’s Association. The names of three county assessors shall be submitted to the Governor by the Association of West Virginia Assessors;

(ii) One appointment shall be a county prosecuting attorney to be selected from a list of three names submitted by the West Virginia Prosecuting Attorneys Institute;

(iii) One appointment shall be an attorney licensed in West Virginia and in good standing as a member of the West Virginia State Bar with experience in real estate and mineral title examination, to be selected from a list of three names submitted by the State Bar; and

(iv) One appointment shall be a representative of a local historical or genealogical society.

(e) The members of the board shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as members of the board in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration. In the event the expenses are paid, or are to be paid, by a third party, the member shall not be reimbursed by the state.

(f) The staff of the board shall consist of the director of Archives and History within the Department of Arts, Culture, and History and any additional staff as needed.

(g) The board shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to establish a system of records management and preservation for county governments: *Provided*, That, for the retention and disposition of records of courts of record and magistrate courts, the implementation of the rule is subject to action by the Supreme Court of Appeals of West Virginia. The proposed rules shall include provisions for establishing a program of grants to county governments for making records management and preservation uniform throughout the state.

(h) In addition to the fees charged by the clerk of the county commission under the provisions of §59-1-10 of this code, the clerk shall charge and collect an additional $2 fee for every document containing less than 20 pages filed for recording and an additional $1 fee for each additional 10 pages of document filed for recording. At the end of each month, the clerk of the county commission shall deposit into the Public Records and Preservation Revenue Account as established in the State Treasury all fees collected: *Provided*, That the clerk may retain not more than 10 percent of the fees for costs associated with the collection of the fees. Clerks shall be responsible for accounting for the collection and deposit in the State Treasury of all fees collected by the clerk under the provisions of this section.

(i) There is hereby created in the State Treasury a special account entitled the Public Records and Preservation Revenue Account. The account shall consist of all fees collected under the provisions of this section, legislative appropriations, interest earned from fees, investments, gifts, grants, or contributions received by the board. Expenditures from the account shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq*. of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq*. of this code.

(j) Subject to the above provision, the board may expend the funds in the account to implement the provisions of this article. In expending funds from the account, the board shall allocate not more than 50 percent of the funds for grants to counties for records management, access, and preservation purposes. The board shall provide for applications, set guidelines, and establish procedures for distributing grants to counties, including a process for appealing an adverse decision on a grant application. Expenditures from the account shall be for the purposes set forth in this section, including the cost of additional staff of the Division of Archives and History.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2I. DEPARTMENT OF TOURISM.

§5B-2I-7. Tourism Advisory Council; members, appointment, and expenses.

(a) There is continued within the Department of Tourism an independent Tourism Advisory Council.

(b) The Tourism Advisory Council consists of the following 16 members:

(1) The Secretary of Commerce or his or her designee, ex officio;

(2) The Secretary of the Department of Economic Development or his or her designee, ex officio;

(3) The Secretary of Transportation or his or her designee, ex officio;

(4) Twelve members appointed by the Governor, with the advice and consent of the Senate, representing participants in the state’s tourism industry. Ten of the members shall be from the private sector, one shall be a director employed by a convention and visitors bureau and one shall be a member of a convention and visitors bureau. In making the appointments, the Governor may select from a list provided by the West Virginia Hospitality and Travel Association of qualified applicants. Of the 12 members so appointed, no ~~less~~ fewer than ~~three~~ five shall be from each congressional district within the state and shall be appointed to provide the broadest geographic distribution ~~which~~ that is feasible;

 (5) One member to be appointed by the Governor to represent public sector nonstate participants in the tourism industry within the state.

(c) Each member appointed by the Governor serves a staggered term of four years. Any member whose term has expired serves until his or her successor has been appointed. Any person appointed to fill a vacancy serves only for the unexpired term. Any member is eligible for reappointment. In case of a vacancy in the office of a member, the vacancy shall be filled by the Governor in the same manner as the original appointment.

(d) The chair of the Tourism Advisory Council shall be appointed by the Governor from members then serving on the commission, and serves at the will and pleasure of the Governor.

(e) The Tourism Advisory Council shall:

(1) Advise the secretary of the Department of Tourism in the development and implementation of the state’s comprehensive tourism advertising, marketing, promotion, and development strategy; and

(2) Take all actions, in consultation with the secretary, necessary to settle, finalize, and conclude all outstanding advertising grants or other financial obligations of the Tourism Advisory Council respecting funds in the Tourism Promotion Fund previously approved, expended or obligated by the Tourism Advisory Council as of the effective date of this article.

(f) Members of the Tourism Advisory Council are not entitled to compensation for services performed as members. Each member from the private sector is entitled to reimbursement for reasonable expenses incurred in the discharge of their official duties. All expenses incurred by members from the private sector shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable solely from the funds of the Department of Tourism or from funds appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the Department of Tourism beyond the extent to which moneys are available from funds of the authority or from the appropriations.

(g) Members shall meet quarterly as designated by the chair.

CHAPTER 6C. PUBLIC EMPLOYEES.

ARTICLE 3. WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD.

§6C-3-1. West Virginia Public Employees Grievance Board.

(a) Effective June 30, 2007, the Education and State Employees Grievance Board, and the employment of the hearing examiners and administrative law judges under the board, terminate.

(b) Effective July 1, 2007, the West Virginia Public Employees Grievance Board is created as an independent entity under the Department of Administration and all references to the Education and State Employees Grievance Board in the code shall be considered to refer to the West Virginia Public Employees Grievance Board.

(c) On or before July 1, 2007, the Governor, by and with the advice and consent of the Senate, shall appoint the following five members to the board for the following terms:

(1) One person representing the largest labor organization in the state for a term of three years;

(2) One person representing an education employee organization in the state for a term of two years;

(3) One employer representative from the executive branch for a term of two years;

(4) One employer representative from secondary or higher education for a term of three years; and

(5) One citizen member, who is not a current employee, employer or a representative of employees in a workplace in the public, educational or higher educational sector of this state, for a term of one year.

(d) After the initial appointment, the board term shall be three years.

(e) No member may serve more than two consecutive full terms and any member having served two consecutive full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.

(f) A vacancy on the board shall be filled by the Governor by appointment of a like member for the unexpired term of the member whose office is vacant.

(g) The membership of the board shall represent each congressional district, with no more than ~~two~~ three members from any one district and no more than three members may be from the same political party.

(h) Each member of the board, at the time of his or her appointment, must have been a resident of this state for a period of not less than one year immediately preceding the appointment and each member of the board shall remain a resident of this state during the appointment term.

(i) The Governor may remove any member from the board for neglect of duty, incompetency, criminal convictions, or official misconduct.

(j) Any member of the board immediately and automatically forfeits his or her membership if he or she is convicted of a felony under the laws of any state or the United States, or becomes a nonresident of this state.

(k) The board shall hold at least four meetings per year. Other meetings shall be held at the call of the chairperson or upon the written request of two members, at such time and place as designated in the call or request.

(l) The board shall designate one of its members as chairperson and one member as secretary-treasurer who shall serve at the will of the board.

(m) A majority of the members of the board constitute a quorum.

(n) Each member of the board is entitled to receive compensation and expense reimbursement as is accorded legislators in the performance of their duties.

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.

There shall be a state Library Commission, known as the West Virginia Library Commission, which shall consist of the Curator of the West Virginia Department of Arts, Culture, and History as an ex officio voting member and eight members who shall be appointed by the Governor, by and with the advice and consent of the Senate, each for a term of four years. ~~No more than three~~ Four members ~~may reside in the same~~ shall be appointed from each congressional district. At least four members of the commission shall be women and at least four members shall be men. No member of the commission shall receive compensation for services rendered, nor be engaged or interested in the publishing business.

The members of the commission in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and have qualified. On or before the expiration of the terms for which the members are appointed, the Governor shall appoint their successors.

CHAPTER 11. TAXATION.

ARTICLE 13J. NEIGHBORHOOD INVESTMENT PROGRAM.

**§11-13J-4a. Neighborhood Investment Program Advisory Board.**

(a) There is hereby created a Neighborhood Investment Program Advisory Board, which shall consist of 12 voting members and the chairperson.

(b) *Chairperson. —*

(1) The Director of the West Virginia Development Office, or the designee of the Director of the West Virginia Development Office, shall be the ex officio chairperson of the Neighborhood Investment Program Advisory Board.

(2) The chairperson shall vote on actions of the board only in the event of a tie vote, in which case the chairperson's vote shall be the deciding vote.

(c) *Board members*. —

(1) Four members shall be officers or members of the boards of directors of unrelated corporations which are not affiliated with one another and which are currently licensed to do business in West Virginia.

(2) Four members shall be executive directors, officers, or members of the boards of directors of unrelated not-for-profit organizations which are not affiliated with one another which currently hold charitable organization status under Section 501(c)(3) of the Internal Revenue Code and which are currently licensed to do business in West Virginia.

(3) Four members shall be economically disadvantaged citizens of the state that, for the taxable year immediately preceding the year of appointment to the board, had an annual gross personal income that was not more than 125 percent of the federal designated poverty level for personal incomes, and who has been a domiciliary and resident of this state for at least one year at the time of appointment.

A member appointed under this subdivision is not disqualified from completion of his or her term if his or her income in the year of appointment or in any year subsequent to the year of appointment exceeds 125 percent of the federal designated poverty level. A member shall not be eligible for reappointment under this subdivision unless he or she meets the original qualifications for appointment: *Provided,* That such member may be reappointed pursuant to qualification under subdivision (1) or (2) of this subsection if the member meets the requirements of subdivision (1) or (2), respectively.

(d) *Limitations; terms of members; appointments*. —

(1) ~~Not more than four~~ Six members, exclusive of the chairperson, shall be appointed from ~~any one~~ each congressional district. Not more than seven of the members, exclusive of the chairperson, may belong to the same political party. Members shall be eligible for reappointment. However, no member may serve for more than three consecutive terms.

(2) *Appointment terms*. —

(A) Except for initial appointments described under subdivision (3) of this subsection, and except for midterm special appointments made to fill irregular vacancies on the board, members shall be appointed for terms of three years each.

(B) Except for midterm special appointments made to fill irregular vacancies on the board, appointment terms shall begin on July 1 of the beginning year. All appointment terms, special and regular, shall end on June 30 of the ending year.

(3) *Selection of members*. —

(A) For the initial appointment of members under this subdivision, members shall be selected by the Director of the West Virginia Development Office.

(B) At the end of a member's term, the chairperson shall solicit new member nominations from the board and appoint the most appropriate person to serve, in compliance with the requirements set forth in this section.

(C) Vacancies on the board shall be filled in the same manner as the original appointments for the duration of the unexpired term.

(e) *Quorum; meetings; funding*. —

(1) The presence of a majority of the members of the board constitutes a quorum for the transaction of business. The board shall elect from among its members a vice chairperson and such other officers as are necessary.

(2) The board shall meet not less than two times during the fiscal year, and additional meetings may be held upon a call of the chairperson or of a majority of the members: *Provided,* That no meeting of the board shall be required if the total amount of tax credits available for the fiscal year have been allotted.

(3) Board members shall be reimbursed by the West Virginia Development Office for sums necessary to carry out responsibilities of the board and for reasonable travel expenses to attend board meetings.

(f) *Annual report*. — The board shall make a report to the Governor and the Legislature within 30 days of the close of each fiscal year. The report shall include summaries of all meetings of the board, an analysis of the overall progress of the program, fiscal concerns, the relative impact the program is having on the state and any suggestions and policy recommendations that the board may have. The report shall be public information made available to the general public for examination and copying. The board is authorized to publish the annual report, should the board elect to do so.

(g) *Duties of the board. —*

(1) *Administrative duties. —* The board shall be responsible for advising the West Virginia Development Office concerning the administrative obligations of the program.

(2) *Project evaluation and approval; prohibition on project promotion. —*

(A) The board shall select and approve projects, which may then be certified by the Director of the West Virginia Development Office pursuant to section four of this article.

(B) Only projects sponsored by qualified charitable organizations, as defined in section three of this article, may be approved by the board or certified by the Director of the West Virginia Development Office. An applicant that does not hold current status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code may not receive project approval from the board, or project certification from the Director of the West Virginia Development Office, for any proposed project. Failure of any applicant to provide convincing documentation proving such status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code shall result in automatic denial of project approval and denial of project certification under this article.

(3) *Criteria for evaluation*. — In evaluating projects for approval, the board shall give priority to projects based upon the following criteria. A proposed project shall be favored if:

(A) The project is community based.

(B) The proposed project will primarily serve low-income persons.

(C) The proposed project will serve highly distressed neighborhoods or communities.

(D) The project plan incorporates collaborative partnerships among nonprofit groups, businesses, government organizations, and other community organizations.

(E) The applicant or sponsor of the project has demonstrated a proven capacity to deliver the proposed services.

(F) The applicant or sponsor of the project historically maintains reasonable administrative costs.

(G) The applicant produces a strong showing of need for the services which the proposed project would provide, and produces convincing documentation of that need.

(H) The proposed project is innovative, novel, creative, or unique in program approach.

(I) The proposed project is a direct need program or will provide emergency assistance.

(4) If an applicant is directly or indirectly affiliated with one or more board members, those members shall not discuss the proposals with one or more board members, and shall not have a vote when that project is considered for final approval or disapproval.

(5) *Project approval by the board*. — Proposed projects shall be approved or denied approval by a majority vote of the board after competitive comparison with proposed projects of other applicants.

(h) *Project certification by the Director of the West Virginia Development Office. —*

(1) Upon issuance of approval for a project by the board, the approved project shall be certified by the Director of the West Virginia Development Office: *Provided,* That no certification may issue for any project, even though the project may have been approved by the board, if the issuance of certification for such project will cause the aggregate amount of tax credits certified to exceed the limitation set forth in this article. No certification may be issued by the Director of the West Virginia Development Office for any project which has not been approved by the board.

(2) The West Virginia Development Office shall promptly notify applicants of the issuance of certification for their projects and shall issue tax credit vouchers to certified project applicants in the amount of the tax credit represented by the project.

(3) The West Virginia Development Office may provide incidental technical support and guidance to projects certified under this article and may monitor the progress of the projects. The West Virginia Development Office shall make a biannual report to the board on the progress of certified projects and the program generally.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-5. Emergency Medical Services Advisory Council; duties; composition; appointment; meetings; compensation and expenses.

(a) The Emergency Medical Services Advisory Council, created and established by former §16-4C-7 of this code, is continued for the purpose of developing, with the commissioner, standards for emergency medical services personnel and for the purpose of providing advice to the Office of Emergency Medical Services and the commissioner with respect to reviewing and making recommendations for, and providing assistance to, the establishment and maintenance of adequate emergency medical services for all portions of this state.

(b) The council shall advise the commissioner in all matters pertaining to his or her duties and functions in relation to carrying out the purposes of this article.

(c) The council shall review any rule proposed by the commissioner for legislative approval as provided for in §16-4C-6(a) of this code. After reviewing the legislative rule, the Emergency Medical Services Advisory Council shall provide a recommendation to the Legislative Rule-Making Review Committee that the Legislature:

(1) Authorize the promulgation of the legislative rule;

(2) Authorize the promulgation of part of the legislative rule;

(3) Authorize the promulgation of the legislative rule with certain amendments;

(4) Recommend that the proposed rule be withdrawn; or

(5) Reject the proposed rule.

(d) The council shall be composed of 18 members appointed by the Governor by and with the advice and consent of the Senate. The Mountain State Emergency Medical Services Association shall submit to the Governor a list of six names of representatives from its association and a list of three names shall be submitted to the Governor of representatives of their respective organizations by the County Commissioners’ Association of West Virginia, the West Virginia State Firemen’s Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the State Department of Education. The Governor shall appoint, from the respective lists submitted, two persons who represent the Mountain State Emergency Medical Services Association, one of whom shall be a paramedic and one of whom shall be an emergency medical technician-basic; and one person from the County Commissioners’ Association of West Virginia, the West Virginia State Firemen’s Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the State Department of Education. In addition, the Governor shall appoint the following:

(1) One person to represent emergency medical services providers operating within the state;

(2) One person to represent small emergency medical services providers operating within this state;

(3) One person to represent emergency medical services training officers or representatives;

(4) Two people to represent emergency medical services supervisors or administrators; and

(5) Three people to represent the general public who serve as voting members.

(e) ~~Not more than six of the~~ Nine members ~~may~~ shall be appointed from ~~any one~~ each congressional district.

(f) Each term is to be for three years, and no member may serve more than four consecutive terms.

(g) The council shall choose its own chairperson and meet at the call of the commissioner at least twice a year.

(h) The members of the council shall receive compensation and expense reimbursement in an amount not to exceed the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day, or substantial portion thereof, engaged in the performance of official duties.

ARTICLE 5Z. COALITION FOR DIABETES MANAGEMENT.

§16-5Z-2. Members of the Coalition for Diabetes Management.

The Coalition for Diabetes Management shall consist of the following members:

(1) The Dean of the School of Public Health at West Virginia University, or his or her designee, who shall serve as chair of the coalition.

(2) Four physicians licensed to practice in this state pursuant to §30-3-1 *et seq.* of this code or §30-14-1 *et seq.* of this code, who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health. These physicians shall be board-certified endocrinologists.

(3) A primary care physician licensed to practice in this state pursuant §30-3-1 *et seq.* of this code or §30-14-1 *et seq.* of this code, who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(4) A pediatric physician licensed to practice in this state pursuant to §30-3-1 *et seq.* of this code or §30-14-1 *et seq.* of this code who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(5) A pharmacist licensed to practice in this state pursuant to §30-5-1 *et seq.* this code. Preference shall be given to a pharmacist who is certified as a diabetes educator.

(6) A dietitian licensed or registered to practice in this state pursuant to §30-35-1 *et seq.* of this code who is also a diabetic educator who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(7) There shall be ~~equal~~ distribution of the membership of the coalition among the congressional districts of this state and each congressional district shall be represented in the membership of the coalition.

(8) The cochairs of the Joint Committee on Health serve as nonvoting members, ex-officio.

ARTICLE 52. COALITION FOR RESPONSIBLE PAIN MANAGEMENT.

**§16-52-3. Members of the Coalition for Responsible Chronic Pain Management.**

The Coalition for Responsible Chronic Pain Management shall consist of the following members:

(1) The Dean of the School of Public Health at West Virginia University, or his or her designee, who shall serve as chair of the coalition.

(2) A physician who is a board-certified pain specialist.

(3) Three physicians licensed to practice in this state pursuant to article three or article fourteen, chapter thirty of this code who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health. Two of these physicians’ practices shall have been classified as a pain clinic pursuant to the regulations promulgated under article 5H of this chapter. The third physician shall be a primary care physician who is not classified as a pain clinic.

(4) A pharmacist licensed to practice in this state pursuant to §30-5-1 *et seq*. of this code who shall be appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(5) A consumer of health care services directly impacted by the regulation of pain clinics who is appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(6) A chiropractor licensed pursuant to the provisions of §30-16-1 *et seq.* of this code who is appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(7) A Physical Therapist, licensed under chapter thirty of this code, experienced in the area management of chronic pain by physical, behavioral and other nonpharmacological means who is appointed by the President of the Senate and the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee on Health.

(8) Membership on the coalition shall be ~~equally~~ distributed among the congressional districts of this state and each congressional district shall be represented in the membership of the coalition.

(9) The cochairs of the Joint Committee on Health shall serve as nonvoting members, ex-officio.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 4A. COMPLETE STREETS ACT.

§17-4A-3. Complete Streets Advisory Board.

(a) A Complete Streets Advisory Board to the Division of Highways is established to:

(1) Provide and facilitate communication, education and advice between the Division of Highways, counties, municipalities, interest groups and the public;

(2) Make recommendations to the Division of Highways, counties, and municipalities for restructuring procedures, updating design guidance, providing educational opportunities to employees, and creating new measures to track the success of multimodal planning and design; and

(3) Submit to the Joint Committee on Government and Finance, through the Division of Highways, an annual report as outlined herein.

(b) The advisory board shall consist of ~~sixteen~~ 15 members, designated as follows:

(1) The Commissioner of Highways or his or her designee;

(2) The Secretary of the Department of Transportation or his or her designee;

(3) The Secretary of the Department of Health and Human Resources or his or her designee; and

(4) ~~Thirteen~~ Twelve members ~~that~~ who serve at the will and pleasure of the Governor and appointed by the Governor as follows:

(A) One member who is a licensed engineer with expertise in transportation or civil engineering;

(B) One member representing the American Planning Association;

(C) One member representing a state association of counties;

(D) One member representing state association of municipalities;

(E) One member representing a major regional or local public transportation agency;

(F) One member representing a national association of retired persons;

(G) One member representing an organization interested in the promotion of bicycling;

(H) One member representing an organization interested in the promotion of walking and health;

(I) One member representing an organization representing persons with disabilities;

(J) One member representing an automobile and/or trucking organization; and

(K) ~~Three~~ Two members of the general public interested in promoting complete streets policies, one representing each congressional district, as determined by the Governor.

(c) The Commissioner of Highways shall serve as the first chair of the board. The board shall meet at least twice a year and at the call of the chair or a majority of the members. The members of the board shall annually elect one of its members to serve as chair after the first year.

(d) The initial terms of appointment for members appointed by the Governor shall be as follows: Three members appointed to a term of one year, three members appointed to a term of two years, three members appointed to a term of three years and four members appointed to a term of four years. Thereafter each member shall be appointed for four years. A member shall serve until his or her successor is appointed. In the case of a vacancy the appointee shall serve the remainder of the unexpired term. Members of the board may succeed themselves and shall serve without compensation. The members appointed by the Governor are entitled to be reimbursed in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration for actual and necessary mileage expenses incurred while attending official meetings of the board.

(e) On December 1, 2013, and on December 1 every year thereafter, the board shall submit an annual report to the Governor, the Commissioner of Highways and the Joint Committee on Government and Finance on the status of implementation of section one of this article.

(1) The annual report shall include the following information:

(A) A summary of actions taken by the Division of Highways in the preceding year to improve the safety, access and mobility of roadways pursuant to section one of this article;

(B) Modifications made to or recommended for protocols, guidance, standards or other requirements to facilitate complete streets implementation;

(C) Status of the development of multimodal performance indicators;

(D) Any information obtained on the use made of bicycle, pedestrian, transit and highway facilities together with the existing target level of use for these modes, if any;

(E) Available crash statistics by mode, age, road type and location and other relevant factors; and

(F) Other related information that may be requested by the Governor or Legislature.

(2) The Division of Highways may assist the board in the preparation of the board’s annual report.

ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND TOURISM AUTHORITY.

§17-16A-3. West Virginia Parkways Authority.

(a) The West Virginia Parkways, Economic Development and Tourism Authority is continued as an agency of the state, and commencing July 1, 2010, it shall be known as the West Virginia Parkways Authority. Any reference to the West Virginia Parkways, Economic Development and Tourism Authority within this code shall mean the West Virginia Parkways Authority.

~~(b) To be effective on July 1, 2010, the Governor shall appoint, by and with the advice and consent of the Senate:~~

~~(1) A public member representing the first congressional district for a term of five years; and~~

~~(2) A public member representing the first congressional district for a term of four years.~~

~~(c) The public member representing the third congressional district whose term expires in 2010 may be reappointed for a term of five years. The public member representing the second congressional district whose term expires in 2011 may be reappointed for a term of five years.~~

~~(d) To be effective on July 1, 2014, the Governor shall appoint, by and with the advice and consent of the Senate, a public member representing the second congressional district for a term of five years to replace the public member representing the third congressional district whose term expires in 2014.~~

~~(e) To be effective on July 1, 2015, the Governor shall appoint, by and with the advice and consent of the Senate, an at-large public member for a term of five years to replace one of the public members representing the third congressional district whose terms expire in 2015.~~

~~(f) Commencing July 1, 2015, the~~ (b) The Authority shall consist of the following ~~nine~~ seven members:

(1) The Governor or a designee;

(2) The Secretary of the Department of Transportation or a designee;

(3) Two public members representing the first congressional district;

(4) Two public members representing the second congressional district;

~~(5) Two public members representing the third congressional district;~~ and

~~(6)~~ (5) One at-large public member.

~~(g) After the initial appointment term, the~~ (c) The term for the public members shall be five years. All public members appointments shall be made by the Governor, by and with the advice and consent of the Senate.

~~(h)~~ (d) A public member may not serve more than two consecutive full five-year terms. A public member may continue to serve until a successor has been appointed and has qualified.

~~(i)~~ (e) Each public member shall be a resident of this state during the appointment term and shall have been a qualified elector for a period of at least one year next preceding the appointment.

~~(j)~~ (f) A vacancy on the authority shall be filled by appointment by the Governor for the unexpired term of the public member whose office is vacant and the appointment shall be made within 60 days of the vacancy.

~~(k)~~ (g) The Governor may remove any public member from the authority for neglect of duty, incompetency, or official misconduct.

~~(l)~~ (h) A public member immediately and automatically forfeits membership to the authority if he or she is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident of this state.

~~(m)~~ (i) The Governor or designee shall serve as chair of the authority. The authority shall annually elect one of the public members as vice chair, and shall also elect a secretary and treasurer who need not be members of the authority.

~~(n)~~ (j) The Governor shall appoint an Executive Director of the Authority, by and with the advice and consent of the Senate. The Executive Director serves at the will and pleasure of the Governor. The Executive Director is responsible for managing and administering the daily functions of the authority and performing all other functions necessary to the effective operation of the authority. The compensation of the Executive Director is annually set by the Governor.

~~(o)~~ (k) The public members of the authority are not entitled to compensation for their services, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

~~(p)~~ (l) ~~Five~~ Four members of the authority constitutes a quorum and the vote of a majority of members present shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

~~(q)~~ (m) The authority shall meet at least monthly. The chair or any ~~five~~ four members of the authority may call a special meeting: *Provided,* That notice shall be given to all members of the authority not less than 10 days prior to any special meeting.

~~(r)~~ (n) Prior to commencing his or her duties as a member of the authority, each public member shall take and subscribe to the oath required by section five, article IV of the Constitution of this state.

~~(s)~~ (o) Before the issuance of any revenue bonds or revenue refunding bonds under the provisions of this article, each public member of the authority shall execute a surety bond in the penal sum of $25,000. The secretary and treasurer of the authority shall execute a surety bond in the penal sum of $50,000. Each surety bond shall be conditioned upon the faithful performance of the duties of his or her office, shall be executed by a surety company authorized to transact business in West Virginia as a surety, shall be approved by the Governor and filed in the Office of the Secretary of State.

~~(t)~~ (p) All expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under this article and no liability or obligation shall be incurred by the authority beyond the extent to which moneys shall have been provided under this article.

ARTICLE 16B. PUBLIC PORT AUTHORITY.

§17-16B-2. Board of directors — Members, officers, qualifications, terms, oath, compensation, quorum, and delegation of power.

(a) The governing and administrative powers of the authority shall be vested in a board of directors consisting of 11 members, including the transportation secretary, or his or her designee, who shall serve as the chairman of the public port authority, and 10 individuals who shall be appointed by the Governor with the advice and consent of the Senate: *Provided,* That no more than six members shall be members of the same political party.

All directors of the authority shall be residents of the State of West Virginia.

The directors shall annually elect one of their members as vice chairman. The directors shall appoint a person to serve as secretary and as treasurer. The person appointed as treasurer shall give a bond for the faithful performance of his or her duties as custodian of all funds, securities and other investments of the authority in an amount set by the board. The board may elect such other officers from its membership or from its staff as it deems proper, and prescribe their powers and duties. Appointments to fill a vacancy of one of the appointed members shall be made in the same manner as the original appointment.

(b) All appointed members of the board shall be from the private sector, with ~~one member~~ two members of the board from each congressional district of the state ~~as of the effective date of this article~~, and shall represent the public interest generally. At least two members shall be appointed that have recognized ability and practical experience in transportation. At least two members may be appointed that have recognized ability and practical experience in banking and finance. At least one member may be appointed that has recognized ability and practical experience in international trade. At least one member may be appointed that has recognized ability and practical experience in business management, economics or accounting. Two members shall be appointed to represent the public at large.

One ex officio member of the board shall be the Secretary of the Department of Commerce, Labor and Environmental Resources or his or her designee.

One ex officio member of the board shall be the Director of the Governor's Office of Community and Industrial Development or his or her designee.

(c) Any member of the board of directors of the public port authority, appointed pursuant to the provisions of this section prior to amendment thereto, and any member of the board of directors of the wayport authority, appointed under the provisions §5A-16C-2 of this code, prior to repeal of that section, and confirmed by the Senate of West Virginia, and serving in such capacity on the effective date of amendment to this section, shall serve as a member of the board of directors of the public port authority for the duration of the appointed term. Thereafter, their respective successors shall be appointed for terms of three years. Each member shall serve until a successor is appointed and qualified.

(d) Each director, before entering upon the duties of the board, shall take and subscribe to the oath or affirmation required by the West Virginia Constitution. A record of each such oath or affirmation shall be filed in the office of the Secretary of State.

(e) Members of the board shall not be entitled to compensation for their services but shall be reimbursed for all necessary expenses actually incurred in connection with the performance of their duties as members.

(f) Six members of the board shall constitute a quorum and the affirmative vote of the majority of members present at a meeting of the board shall be necessary and sufficient for any action taken by the board, except that the affirmative vote of at least six members is required for the approval of any resolution authorizing the issuance of any bonds pursuant to this article.

(g) No vacancy in the membership of the board impairs the right of a quorum to exercise all rights and perform all duties of the board. Any action taken by the board may be authorized by resolution at any regular or special meeting and shall take effect upon the date the chairman certifies the action of the authority by affixing his or her signature to the resolution unless some other date is otherwise provided in the resolution.

(h) The board may delegate to one or more of its members or to its officials, agents, or employees such powers and duties as it may deem proper.

ARTICLE 16C. DIVISION OF PUBLIC TRANSIT.

§17-16C-4. Public transit advisory council.

There is hereby created the West Virginia public transit advisory council which shall consist of 11 members, selected by the Governor, who shall serve for two year terms commencing on April 1, 1992, and who shall serve at the will and pleasure of the Governor. The membership of the council shall be broadly representative of those groups affected by the implementation of this article: *Provided,* That no more than ~~four~~ six of the members of the council shall reside in the same congressional district. No more than six members may be of the same political party. The members of the council shall serve without compensation and without provision for their expenses related to the work of the council. The council shall provide consultation, on an advisory basis, to the division of public transit on matters related to the implementation of the pilot program or programs referred to in subdivision (d), section three of this article.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-1. Creation; composition; appointment, qualifications, terms and removal of members; offices.

There is a state Board of Education, to be known as the West Virginia Board of Education, which is a corporation and as such may contract and be contracted with, plead and be impleaded, sue and be sued, and have and use a common seal. The state board consists of 12 members, of whom one is the state Superintendent of Schools, ex officio; one of whom is the chancellor of the Higher Education Policy Commission, ex officio; and one of whom is the chancellor of the West Virginia council for community and technical college education, ex officio, none of whom is entitled to vote. The other nine members are citizens of the state, appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years. Terms of office begin on November 5, of the appropriate year and end on November 4, of the appropriate year. ~~At least two, but not more than three,~~ Not more than five members are appointed from ~~each~~ any one congressional district.

No more than five of the appointive members may belong to the same political party and no person is eligible for appointment to membership on the state board who is a member of any political party executive committee or holds any other public office or public employment under the federal government or under the government of this state or any of its political subdivisions, or who is an appointee or employee of the board. Members are eligible for reappointment. Any vacancy on the board shall be filled by the Governor by appointment for the unexpired term.

Notwithstanding the provisions of §6-6-4 of this code, a member of the state board may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

Before exercising any authority or performing any duties as a member of the state board, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia, the certificate whereof shall be filed with the Secretary of State. A suitable office in the state Department of Education at the state Capitol shall be provided for use by the state board.

ARTICLE 11. WEST VIRGINIA UNIVERSITY.

§18-11-1. Continuation; board of Governors [board of regents].

The West Virginia University, heretofore established and located at Morgantown, in Monongalia county, shall be continued, and shall be known as West Virginia University. The business and educational affairs of the university shall be under the control, supervision and management of the board of Governors, which shall be a corporation, and as such may contract and be contracted with, sue and be sued, plead and be impleaded, and have and use a common seal. The board of Governors shall consist of nine members, all of whom shall be citizens of the state, to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight, and nine years, respectively. ~~At least one but not~~ Not more than ~~two~~ five members shall be appointed from each congressional district and at least four members shall be graduates of West Virginia University. No more than five members shall belong to the same political party. No person shall be eligible for membership on the board of Governors who is a member of any political party executive committee, or who holds any other public office or public employment under the federal government or under the government of this state or any of its political subdivisions, or who is an appointee or employee of the board. Members shall be eligible for reappointment.

The Governor shall appoint all members of the board of Governors as soon after the effective date hereof as is practicable, for respective terms of office beginning on July 1, 1947. Any vacancy on the board of Governors shall be filled by the Governor by appointment for the unexpired term. The terms of office of present members of the board of Governors shall expire on June 30, 1947.

No member may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

Before exercising any authority or performing any duties as a member of the board of Governors, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section 5, article IV of the Constitution, the certificate whereof shall be filed in the office of the Secretary of State. A suitable office or offices for the board shall be provided in the buildings of West Virginia University.

The board of Governors shall have general control, supervision and management of the business and educational affairs of the university and of Potomac State School, and shall have full authority to employ all officers, teachers, and other employees of such institutions and fix their yearly or monthly salaries.

The board of Governors shall meet annually in June at the university in the performance of its duties, and may meet at such other times and places as may be necessary for the best interests of the institutions under its control. Special meetings may be called by the board when in session, or by the president, who shall not succeed himself or herself as president of the board. The board shall at each annual meeting elect one of its members as president and one as vice president of the board, and shall appoint a secretary and fix his or her salary, the same to be paid out of the funds appropriated by the Legislature for the university. The president of the university shall be the chief executive officer of the board. The members of the board shall serve without compensation, but every member shall be reimbursed from the appropriation made by the Legislature for the support of the university for actual expenses incident to the performance of his or her duties, upon presentation of an itemized sworn statement thereof.

On October 1, of each year, or as soon thereafter as practicable, the board of Governors shall make to the Governor and to the Legislature a full report concerning the educational institutions under its control and management, together with its recommendations in respect to needed legislation.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-2. Composition of commission; terms and qualifications of members; vacancies; eligibility for reappointment; oath of office; removal from office.

(a) The commission is comprised of nine members, all of whom are entitled to vote. The membership of the commission is as follows:

(1) The State Superintendent of Schools, ex officio;

(2) The chair of the West Virginia Council for Community and Technical College Education, ex officio;

(3) Four at-large members who are citizens of the state, appointed by the Governor, by and with the advice and consent of the Senate; and

(4) Three at-large members who are designated as higher education representatives, appointed by the Governor, by and with the advice and consent of the Senate; for each of the higher education representatives, the Governor shall choose from recommendations made by any state college and university or exempted school and the Governor may request additional recommendations from state colleges and universities or exempted schools if in the Governor in his or her sole discretion determines that additional recommendations are necessary for appointments to the commission.

(b) Each of the at-large members appointed by the Governor shall represent the public interest and shall be committed to the legislative intent and goals set forth in state law and policy.

(c) The Governor may not appoint any person to be a member of the commission who is an officer, employee or member of the council or an advisory board of any state college or university or exempted school; an officer or member of any political party executive committee; the holder of any other public office or public employment under the government of this state or any of its political subdivisions; an appointee or employee of any governing board; or an immediate family member of any employee under the jurisdiction of the commission, the council or any governing board.

(d) Of the seven, at-large members appointed by the Governor:

(1) No more than four may belong to the same political party;

(2) At least ~~two~~ three shall be appointed from each congressional district; and

(3) Effective July 1, 2008, no more than one member may serve from the same county.

(e) The at-large members appointed by the Governor serve overlapping terms of four years.

(f) The Governor shall appoint a member to fill any vacancy among the seven at-large members, by and with the advice and consent of the Senate. Any member appointed to fill a vacancy serves for the unexpired term of the vacating member. The Governor shall fill the vacancy within thirty days of the occurrence of the vacancy.

(g) An at-large member appointed by the Governor may not serve more than two consecutive terms.

(h) Before exercising any authority or performing any duties as a member of the commission, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof shall be filed with the Secretary of State.

(i) A member of the commission appointed by the Governor may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

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

ARTICLE 3. SOLID WASTE MANAGEMENT BOARD.

**§22C-3-4. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation, and expenses; director of board.**

The solid waste management board is a governmental instrumentality of the state and a body corporate. The exercise by the board of the powers conferred on it by this article and the carrying out of its purposes and duties are essential governmental functions and are for a public purpose.

The board is composed of seven members. The secretary of the Department of Health and Human Resources and the director of the Division of Environmental Protection, or their designees, are members ex officio of the board. The other five members of the board are appointed by the Governor, by and with the advice and consent of the Senate, for terms of one, two, three, four, and five years, respectively. Two appointees shall be persons having at least three years of professional experience in solid waste management, civil engineering or regional planning and three appointees shall be representatives of the general public. The successor of each such appointed member shall be appointed for a term of five years in the same manner the original appointments were made and so that the representation on the board as set forth in this section is preserved, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. Each board member serves until the appointment and qualification of his or her successor.

~~No~~ Not more than three of the appointed board members may at any one time be from the same congressional district or belong to the same political party. No appointed board member may be an officer or employee of the United States or this state. Appointed board members may be reappointed to serve additional terms. All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his or her duties, shall comply with the requirements of §6-1-1 *et seq.,* of this code and give bond in the sum of $25,000. Appointed members may be removed from the board only for the same causes as elective state officers may be removed.

Annually the board shall elect one of its appointed members as chair, another as vice chair and appoint a secretary-treasurer, who need not be a member of the board. Four members of the board are a quorum and the affirmative vote of four members is necessary for any action taken by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board. The person appointed as secretary-treasurer shall give bond in the sum of $50,000. If a board member is appointed as secretary-treasurer, he or she shall give bond in the sum of $25,000 in addition to the bond required in the preceding paragraph.

The ex officio members of the board shall not receive any compensation for serving as a board member. Each of the five appointed members of the board shall be paid the same compensation, and each member of the board shall be paid the expense reimbursement, as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. All such compensation and expenses incurred by board members are payable solely from funds of the board or from funds appropriated for such purpose by the Legislature and no liability or obligation shall be incurred by the board beyond the extent to which moneys are available from funds of the board or from such appropriation.

The board shall meet at least four times annually and at any time upon the call of its chair or upon the request in writing to the chair of four board members.

The board shall appoint a director as its chief executive officer. The director shall have successfully completed an undergraduate education and, in addition, shall have two years of professional experience in solid waste management, civil engineering, public administration or regional planning.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-3b. Indigent Defense Commission.

(a) There is hereby established the Indigent Defense Commission to provide assistance to Public Defender Services with regard to the general policies and procedures of the agency, including, but not limited to, the opening, closing, or merging of public defender offices throughout the state and the establishment of performance measures for the qualitative review of indigent defense.

(b) In order to demonstrate a collaborative approach to solving criminal justice problems, the commission shall consist of the Executive Director of Public Defender Services, who shall serve as chair, and the following members appointed by the Governor:

(1) One former or retired circuit judge;

(2) Three lawyers, ~~one~~ at least one of which is from each congressional district, who have significant experience in the defense of criminal cases or have demonstrated a strong commitment to quality representation of indigent defendants;

(3) One current chief public defender; and

(4) One nonlawyer with a demonstrated commitment to providing legal services to the indigent;

(5) One person who is a member of an organization that advocates on behalf of people with mental illness and developmental disabilities; and

(6) One attorney with significant experience in the defense of juvenile delinquency and abuse and neglect cases.

(c) The commission shall meet at the times and places specified by the call of the chair: *Provided,* That the commission shall meet no less than four times each year. Members shall serve without compensation but may receive reimbursement of actual and necessary expenses for each day or portion thereof engaged in this discharge of official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(d) Of the initial appointments made to the commission, two shall be for a term ending one year after the effective date of this section, two for a term ending two years after the effective date of this section, two for a term ending three years after the effective date of this section. Thereafter, terms of office shall be for four years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each member shall hold office from the date of his or her appointment until the end of the term for which he or she was appointed or until his or her successor qualifies for office. When a vacancy occurs as a result of death, resignation, or removal in the membership of this commission, it shall be filled by appointment within 30 days of the vacancy for the unexpired portion of the term in the same manner as original appointments. No member shall serve more than two consecutive full or partial terms and no person may be reappointed to the commission until at least two years have elapsed after the completion of a second successive term.

(e) The appointed members of the commission serve four year terms that shall coincide with the term of the Governor.

(f) The commission has the following powers and duties:

(1) To develop standards regarding the qualifications and training for public defenders, assistant public defenders and staff;

(2) To explore opportunities related to the training of appointed panel attorneys;

(3) To evaluate, on an annual basis, the compensation and caseloads of public defenders and appointed panel attorneys;

(4) To develop standards for providing and compensating expert witnesses, investigators and other persons who provide services related to legal representation under this article;

(5) To study, monitor, and evaluate existing standards for determining eligibility for legal representation under section sixteen of this article;

(6) To study the feasibility and need of creating additional public defender corporations, the activation of public defender corporations and the formation of multicircuit or regional public defender corporations in accordance with the provisions of section eight of this article;

(7) To study the potential for the dissolution of public defender corporations;

(8) To study, monitor, evaluate, and make recommendations regarding the training, experience, and background necessary for a public defender or panel attorney to competently represent indigent defendants in capital cases; and

(9) To monitor and make recommendations regarding the following activities of the board of directors of each public defender corporation receiving funding pursuant to this article:

(A) The appointment of the public defender and any assistant public defenders pursuant to subdivision (1), subsection (c), section fifteen of this article;

(B) The fixing of professional and clerical salaries pursuant to subdivision (2), subsection (c), section fifteen of this article; and

(C) The removal of any public defender, assistant public defender or other employee for misfeasance, malfeasance, or nonfeasance pursuant to subdivision (3), subsection (c), section fifteen of this article.

~~(g) On or before January 15, 2009 the commission shall report to the Legislature its findings and recommendations on the feasibility and need for the creation of additional public defender corporations; the activation of public defender corporations; the formation of multicircuit or regional public defender corporations; or the dissolution of public defender corporations in accordance with the provisions of section eight of this article~~

ARTICLE 22. STATE LOTTERY ACT.

§29-22-4. State Lottery Commission created; composition; qualifications; appointment; terms of office; chairman’s removal; vacancies; compensation and expenses; quorum; oath and bond.

(a) There is hereby created a state Lottery Commission which shall consist of seven members, all residents and citizens of the state, one who shall be a lawyer, one who shall be a certified public accountant, one who shall be a computer expert, one who shall have not less than five years experience in law enforcement and one who shall be qualified by experience and training in the field of marketing. The two remaining members shall be representative of the public at large. The commission shall carry on a continuous study and investigation of the lottery throughout the state and advise and assist the director of the state lottery. The commission members shall be appointed by the Governor, by and with the advice and consent of the Senate, no later than July 1, 1985. The terms of members first appointed expire as designated by the Governor at the time of appointment: One at the end of one year; two at the end of two years; one at the end of three years; two at the end of four years; and one at the end of five years. ~~Upon the effective date of this section, as~~ As vacancies occur, appointments to fill vacancies shall be made so that at least ~~two~~ three members are appointed from each congressional district ~~existing as of January 1, 1993~~. No more than four members of such commission shall belong to the same political party. Members serve overlapping terms of five years and are eligible for successive appointments to the commission. On July 1, of each year, the commission shall select a chairman from its membership. The Governor may remove any commission member for cause, notwithstanding the provisions of §6-6-4 of this code. Vacancies shall be filled in the same manner as the original appointment but only for the remainder of the term. No person convicted of a felony ~~or crime involving moral turpitude~~ shall be eligible for appointment nor appointed as a commissioner.

(b) The board shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties: *Provided,* That the per mile rate to be reimbursed shall be the same rate as authorized for members of the Legislature. All such payments shall be made from the state Lottery Fund.

(c) At least one meeting per month shall be held by the commission. Additional meetings may be held at the call of the chairman, director, or majority of the commission members.

(d) A majority of the members constitutes a quorum for the transaction of business, and all actions require a majority vote of the members present.

(e) Before entering upon the discharge of the duties as commissioner, each commissioner shall take and subscribe to the oath of office prescribed in section five, article IV of the Constitution of West Virginia and shall enter into a bond in the penal sum of $100,000 with a corporate surety authorized to engage in business in this state, conditioned upon the faithful discharge and performance of the duties of the office. The executed oath and bond shall be filed in the office of the Secretary of State.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

§30-38-6. Board created; appointments, qualifications, terms, oath, removal of members; quorum; meetings; disqualification from participation; compensation; records; employing staff.

(a) The West Virginia real estate appraiser licensing and certification board, which consists of nine members appointed by the Governor with the advice and consent of the Senate, is continued.

(1) Each member shall be a resident of the State of West Virginia, except the appraisal management company representative is not required to be a resident of West Virginia.

(2) Four members shall be certified real estate appraisers having at least five years’ experience in appraisal as a principal line of work immediately preceding their appointment, and shall remain certified real estate appraisers throughout their terms.

(3) Two members shall have at least five years’ experience in real estate lending as employees of financial institutions.

(4) Two members may not be engaged in the practice of real estate appraisal, real estate brokerage or sales, or have any financial interest in these practices.

(5) One member shall be a representative from an appraisal management company registered under the provisions of §30-38A-1 *et seq*. of this code.

(6) No member of the board may concurrently be a member of the West Virginia Real Estate Commission.

(7) Not more than ~~two~~ three appraiser members may be appointed from ~~each~~ a congressional district.

(b) Members will be appointed for three year terms, which are staggered in accordance with the initial appointments under prior enactment of this act.

(1) No member may serve for more than three consecutive terms.

(2) Before entering upon the performance of his or her duties, each member shall subscribe to the oath required by section five, article IV of the constitution of this state.

(3) The Governor shall, within 60 days following the occurrence of a vacancy on the board, fill the vacancy by appointing a person who meets the requirements of this section for the unexpired term.

(4) Any member may be removed by the Governor in case of incompetency, neglect of duty, gross immorality, or malfeasance in office.

(c) The board shall elect a chairman.

(d) A majority of the members of the board constitutes a quorum.

(e) The board shall meet at least once in each calendar quarter on a date fixed by the board.

(1) The board may, upon its own motion, or shall upon the written request of three members of the board, call additional meetings of the board upon at least 24 hours’ notice.

(2) No member may participate in a proceeding before the board to which a corporation, partnership, or unincorporated association is a party, and of which he or she is or was at any time in the preceding 12 months a director, officer, owner, partner, employee, member, or stockholder.

(3) A member may disqualify himself or herself from participation in a proceeding for any other cause the member considers sufficient.

(f) The appointed members will receive compensation and expense reimbursement in accordance with the provisions of §30-1-11 of this code.

(g) The board may employ staff as necessary to perform the functions of the board, to be paid out of the board fund created by the provisions of this article. Persons employed by any real estate agent, broker, appraiser, or lender, or by any partnership, corporation, association, or group engaged in any real estate business, may not be employed by the board. The board may hire a licensed or certified appraiser whose license status is inactive or who is not employed by any of the prohibited employers listed.

ARTICLE 42. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§30-42-4. West Virginia contractor licensing board created; members; appointment; terms; vacancies; qualifications; quorum.

(a) The West Virginia Contractor Licensing Board is continued. The board shall consist of 10 members appointed by the Governor by and with the advice and consent of the Senate for terms of four years. The members shall serve until their successors are appointed and have been qualified. Eight of the appointed members shall be owners of businesses engaged in the various contracting industries, with at least one member appointed from each of the following contractor classes: One electrical contractor; one general building contractor; one general engineering contractor; one heating, ventilating and cooling contractor; one multifamily contractor; one piping contractor; one plumbing contractor; and one residential contractor, as defined in §30-42-3 of this code. Two of the appointed members shall be building code officials who are not members of any contracting industry. At least ~~three~~ four members of the board shall reside, at the time of their appointment, in each congressional district as existing on ~~January 1, 2018~~ January 1, 2023. The Secretary of the Department of Tax and Revenue or his or her designee, and the Commissioner of WorkForce West Virginia or his or her designee shall be ex-officio nonvoting members of the board.

(b) Terms of the members first appointed shall be two members for one year, two members for two years, three members for three years, and three members for four years, as designated by the Governor at the time of appointment. Thereafter, terms shall be for four years. A member who has served all or part of two consecutive terms shall not be subject to reappointment unless four years have elapsed since the member last served. Vacancies shall be filled by appointment by the Governor for the unexpired term of any member whose office is vacant and shall be made within 60 days of the occurrence of the vacancy. A vacancy on the board shall not impair the right of the remaining members to exercise all the powers of the board.

(c) The board shall elect a chair from one of the voting members of the board. The board shall meet at least once annually and at such other times as called by the chair or a majority of the board. Board members shall receive compensation not to exceed the amount paid to members of the Legislature for the interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion of a day spent attending meetings of the board and shall be reimbursed for all reasonable and necessary expenses incurred incident to his or her duties as a member of the board. A majority of the members appointed shall constitute a quorum of the board.

chapter 31g. broadband enhancement and expansion policies.

ARTICLE 1. Broadband enhancement council.

§31G-1-3. Broadband Enhancement Council; members of council; administrative support.

(a) The Broadband Enhancement Council is hereby established and continued. The current members, funds, and personnel shall continue in effect and be wholly transferred; except as may be hereinafter provided. With regard to the terms of the public members appointed under subdivision five, subsection (d) of this section, at the next regular meeting of the council following July 1, 2017, the currently serving public members shall draw by lot for the length of their terms, three members to serve for one additional year, three members to serve for two additional years and the last three members to serve for three additional years, with all public members in future to serve for the duration of the term described below.

(b) The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties are considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose. The council is created under the Department of Commerce for administrative, personnel, and technical support services only.

(c) The council shall consist of ~~13~~ 11 voting members, designated as follows:

(1) The Secretary of Commerce or his or her designee;

(2) The Chief Technology Officer or his or her designee;

(3) The Vice Chancellor for Administration of the Higher Education Policy Commission or his or her designee;

(4) The State Superintendent of Schools or his or her designee;

(5) ~~Nine~~ Seven public members that shall serve no more than three consecutive three year terms from the date of their appointment and are appointed by and serve at the will and pleasure of the Governor with the advice and consent of the Senate, as follows:

(i) One member representing users of large amounts of broadband services in this state;

(ii) One member from each congressional district representing rural business users in this state;

(iii) One member from each congressional district representing rural residential users in this state;

(iv) One member representing urban business users in this state; and

(v) One member representing urban residential users in this state; and

(6) Additionally, the President of the Senate shall name two Senators from the West Virginia Senate, one from each party, and the Speaker of the House shall name two Delegates from the West Virginia House of Delegates, one from each party, each to serve in the capacity of ex officio, nonvoting advisory members of the council.

(d) The Secretary of Commerce shall chair the first meeting at which time a chair and vice chair shall be elected from the members of the council for a term of two years: *Provided,* That a chair or vice-chair may not serve more than two consecutive full or partial terms in that capacity. In the absence of the chair, the vice chair shall serve as chair. The council shall appoint a secretary-treasurer who need not be a member of the council and who, among other tasks or functions designated by the council, shall keep records of its proceedings.

(e) The council may appoint committees or subcommittees to investigate and make recommendations to the full council. Members of these committees or subcommittees need not be members of the council.

(f) ~~Seven~~ Six voting members of the council constitute a quorum and the affirmative vote of a simple majority of those members present is necessary for any action taken by vote of the council.

(g) The gubernatorial appointed members shall be deemed part-time public officials, and may pursue and engage in another business or occupation or gainful employment. Any person employed by, owning an interest in, or otherwise associated with a broadband deployment project, project sponsor, or project participant may serve as a council member and is not disqualified from serving as a council member because of a conflict of interest prohibited under §6B-2-5 of this code and is not subject to prosecution for violation of that section when the violation is created solely as a result of his or her relationship with the broadband deployment project, project sponsor, or project participant so long as the member recuses himself or herself from board participation regarding the conflicting issue in the manner set forth in §6B-2-5 of this code and the legislative rules promulgated by the West Virginia Ethics Commission.

(h) No member of the council who serves by virtue of his or her office may receive any compensation or reimbursement of expenses for serving as a member. The public members and members of any committees or subcommittees are entitled to be reimbursed for actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of his or her official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(i) No person is subject to antitrust or unfair competition liability based on membership or participation in the council, which provides an essential governmental function and enjoys state action immunity.