

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENROLLED

House Bill 2009

BY DELEGATE PHILLIPS

[Passed April 11, 2025; in effect July 1, 2025)]

1 AN ACT to amend and reenact §5B-2I-2, §5B-2I-4, §10-5-2, §29-1-1, §29-1-1a, §29-1-2, §29-1-
2 3, §29-1-4, §29-1-6, §29-1-7, §29-1-8, §29-1-8c, §29-1-9, §29-1-11, §29-1-12, §29-1-13,
3 §29-1-14, and §29-1-15 of the Code of West Virginia, 1931, as amended; and to repeal
4 §5F-1-3a, §5F-1-6, and §29-1-10, relating to the merging and reorganizing of the
5 executive branch; abolishing Department of Arts, Culture, and History and reorganizing its
6 sections and commissions under Department of Tourism; specifying the authority of the
7 Secretary of Department of Tourism over these sections and commissions; correcting
8 titles of affected departments, divisions, and positions based on the redesignations;
9 specifying that starting on July 1, 2025, new hires and anyone who moves positions within
10 Department of Tourism shall be in the classified exempt service system and shall be
11 exempt from the state grievance procedures; providing Secretary of Department of
12 Tourism authority to appoint the directors of certain sections; substituting the title of
13 Secretary of Department of Tourism for Secretary of the Department of Arts, Culture, and
14 History in several sections of code; granting Secretary of Tourism authority to approve or
15 repeal rules promulgated by sections and commissions listed in certain sections of code;
16 specifying that starting on July 1, 2025, new hires and employees that move positions
17 within the sections and commissions shall be in the classified exempt service system and
18 shall be exempt from state grievance procedures; providing an exemption; providing that
19 Secretary of Department of Tourism may designate certain employees' status within the
20 civil service system in order to comply with federal law or receive federal funds; clarifying
21 the continued applicability of certain other employee protections found elsewhere in code;
22 granting Secretary of Department of Tourism discretion to allow a person to serve in
23 multiple positions or professions within certain sections of code; removing certain specific

24 qualifications for persons appointed as directors of various sections of code; and technical
25 cleanup of amended and reenacted sections.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2I. DEPARTMENT OF TOURISM.

§5B-2I-2. West Virginia Department of Tourism.

1 The West Virginia Department of Tourism, previously continued from the West Virginia
2 Tourism Office and the Division of Tourism, is hereby continued as a department of the executive
3 branch of state government. All references in this code to the Division of Tourism or to the West
4 Virginia Tourism Office shall be construed as references to the West Virginia Department of
5 Tourism. As used in this article, "department" means the Department of Tourism.

§5B-2I-4. Powers and duties of the Department of Tourism.

1 (a) The Department of Tourism, under the direction and charge of the secretary, shall
2 develop and implement a comprehensive tourism advertising, promotion, and development
3 strategy for West Virginia. "Comprehensive tourism advertising, promotion and development
4 strategy" means a plan that outlines strategies and activities designed to continue, diversify and
5 expand the tourism base of the state as a whole; create tourism jobs; develop a highly skilled
6 tourism workforce; facilitate business access to capital for tourism; advertise and market the
7 resources offered by the state with respect to tourism advertising, promotion and development;
8 facilitate cooperation among local, regional and private tourism enterprises; improve infrastructure
9 on a state, regional and community level in order to facilitate tourism development; improve the
10 tourism business climate generally; and leverage funding from sources other than the state,
11 including local, federal and private sources. In addition to all other power and duties of the
12 department by other provisions of this code, the department shall:

(1) Coordinate media events to promote a positive image of West Virginia and new investment in the state;

(2) Provide comprehensive strategic planning services to existing tourism enterprises;

(3) Promote attractions of West Virginia in other states;

(4) Provide advertising, marketing and communications goods and services, including, without limitation, a cooperative advertising program to facilitate and allow participation in the department's advertising and marketing campaigns and activities, to state agencies, departments, units of state or local government, private tourism enterprises and other persons, entities, or private enterprises, including, without limitation, convention and visitors' bureaus;

(5) Distribute West Virginia informational publications and manage the West Virginia Welcome Centers; and

(6) Coordinate programs, initiatives, and production of materials relating to the branding and marketing of the state, and its departments and agencies, and to provide greater coherence in such programs, initiatives, and materials across the departments and agencies of the state.

(b) In developing its strategies, plans and campaigns, the department shall consider the following:

(1) Improvement and expansion of existing tourism marketing and promotion activities;

(2) Promotion of cooperation among municipalities, counties and the West Virginia Infrastructure and Jobs Development Council in funding physical infrastructure to enhance the potential for tourism development.

(c) The Department of Tourism shall have the following powers and duties:

(1) To acquire for the state in the name of the department by purchase, lease, or agreement, or to accept or reject for the state, in the name of the department, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, to effectuate or support the purposes of this article;

(2) To make recommendations to the Governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties and to exercise any other power that may be necessary or proper for the orderly conduct of the business of the department and the effective discharge of the duties of the department;

(3) To cooperate and assist in the production of motion pictures and television and other communications;

(4) To purchase advertising time or space in or upon any medium generally engaged or employed for said purpose to advertise and market the resources of the state or to inform the public at large or any specifically targeted group or industry about the benefits of living in, investing in, producing in, buying from, contracting with, or in any other way related to, the State of West Virginia or any business, industry, agency, institution, or other entity therein;

(5) To promote and disseminate information related to the attractions of the state through the operation of the state's telemarketing initiative, which telemarketing initiative shall include a centralized reservation and information system for state parks and recreational facilities;

(6) To take such additional actions as may be necessary to carry out the powers, duties and programs described in this article; and

(7) To provide assistance to and assist with retention and expansion of existing tourism-related enterprises in the state and to recruit or assist in the recruitment of new tourism-related enterprises to the state.

(d) The Department of Tourism may contract with the Division of Highways to sell advertising space on the WV511 website to promote in-state tourism and raise capital for technological improvements to the website: *Provided*, That 50 percent of the money collected for sale of advertising space is deposited into the Tourism Promotion Fund and the other 50 percent of the money collected from the sale of advertising space is remitted to the Division of Highways pursuant to the contract.

63 (e) The Department of Tourism may charge and collect reasonable fees for goods and
64 services it provides to state agencies, departments, units of state or local government or other
65 person, entity, or enterprise. All moneys collected by the department shall be deposited in the
66 Tourism Promotion Fund and used in accordance with the provisions of this article.

67 (f) The Department of Tourism may engage and retain one or more advertising and
68 marketing agencies, consultants, enterprises, firms, or persons, as deemed by the secretary, in
69 his or her sole discretion, necessary or advisable to assist the department in carrying out its
70 powers and duties as set forth in this article. In the procurement of advertising agencies,
71 consultants, enterprises, or persons, from time to time, estimated to cost \$250,000 or more, the
72 secretary shall encourage such advertising and marketing agencies, consultants, enterprises,
73 firms, or persons to submit an expression of interest, which shall include a statement of
74 qualifications, including anticipated concepts and proposed advertising, marketing and
75 advertising campaigns. All potential contracts shall be announced by public notice published as
76 a Class II legal advertisement in compliance with §59-3-3 of this code. A committee of three to
77 five representatives of the department or the Tourism Advisory Council, as selected by the
78 secretary, shall evaluate the statements of qualifications and other materials submitted by
79 interested firms and select three firms which, in their opinion, are best qualified to perform the
80 desired service. The committee shall then rank, in order of preference, the three firms selected
81 and shall commence scope of service and price negotiations with the first-ranked firm. If the
82 department is unable to negotiate a satisfactory contract with the first-ranked firm, at a fee
83 determined to be fair and reasonable, price negotiations with the firm of second choice shall
84 commence. Failing accord with the second-ranked firm, the committee shall undertake price
85 negotiations with the third-ranked firm. If the department is unable to negotiate a satisfactory
86 contract with any of the selected firms, the office shall select additional firms in order of their
87 competence and qualifications and it shall continue negotiations in accordance with this section
88 until an agreement is reached.

89 If the procurement of the services is estimated by the secretary to cost less than \$250,000,
90 the department shall conduct discussions with three or more firms solicited on the basis of known
91 or submitted qualifications for the assignment prior to the awarding of any contract: *Provided,*
92 That if a judgment is made that special circumstances exist and that seeking competition is not
93 practical, the department may select a firm on the basis of previous satisfactory performance and
94 knowledge of the department's needs. After selection, the department and selected firm shall
95 develop the scope of desired services and negotiate a contract.

96 (g) The secretary of the Department of Tourism may, in order to carry out the powers and
97 duties of the department described in this article, employ necessary personnel, contract with
98 professional or technical experts or consultants and purchase or contract for the necessary
99 equipment or supplies.

100 (h) The secretary of the Department of Tourism may designate, in writing, a list of positions
101 within the department that shall be exempt from coverage under the state's classified service:
102 *Provided,* That beginning on July 1, 2025, all employees of the Department of Tourism shall be
103 exempt from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code and from
104 the classified civil service system under §29-6-1 *et seq.* of this code except that:

105 (1) All employees of the Department of Tourism who are currently members of the
106 classified civil service system shall retain their status as long as they remain in their current
107 position, and all employees of the Department of Tourism who currently have recourse to the
108 state grievance procedures will continue to have access to the state grievance procedures as
109 long as they remain in their current position; and

110 (2) Any employee of the Department of Tourism that leaves his or her position and remains
111 an employee within the Department of Tourism shall, at that time, be transferred to the classified-
112 exempt service system as defined in §29-6-2(g) of this code and be exempted from the state
113 grievance procedures as set forth in §6C-2-1 *et seq.* of this code.

(i) The secretary shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be deemed necessary to comply with federal regulation, or the requirements for receipt of federal funding or assistance.

(j) Nothing in this article shall prevent a person, at the secretary's discretion, from serving in multiple positions within the Department of Tourism.

(k) Subsection (h) of this section shall not apply to any position appointed by the Governor.

(l) Nothing in this section shall exempt the Department of Tourism from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

(m) The Department of Tourism shall submit a report annually to the Governor and the Legislature about the development of the tourism industry in the state and the necessary funding required by the state to continue the development of the tourism industry.

(n) The Department of Tourism and the secretary shall engage, collaborate, assist, and cooperate with the Department of Economic Development, when and as appropriate, to facilitate retention, expansion, recruitment, and location of existing and new tourism-related enterprises.

(o) The Department of Tourism shall utilize, to the fullest extent practicable and efficient, existing resources of the Department of Commerce for functions necessary for the operation of the department but which functions are not directly related to the purposes of the department listed above. The Department of Tourism may enter into such agreements with the Department of Commerce or other agencies of this state as may be necessary or advisable to utilize existing resources of this state.

(p) The Department of Tourism shall be exempt from §5A-3-1 *et seq.* of this code.

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

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-3a. Executive compensation commission.

1 [Repealed.]

§5F-1-6. House Bill 4006 amendments effective date.

1 [Repealed.]

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

ARTICLE 5. EDUCATIONAL BROADCASTING COMMISSION.

**§10-5-2. West Virginia Educational Broadcasting Commission; members; organization;
officers; employees; meetings; expenses.**

1 (a) The West Virginia Educational Broadcasting Commission is continued as a public
2 benefit corporation. The commission shall consist of nine voting members, who shall be residents
3 of the state, including:

4 (1) The Governor or designee;

5 (2) The State Superintendent of Schools;

6 (3) One member of the West Virginia Board of Education to be selected by it annually;

7 (4) One member of the West Virginia Higher Education Policy Commission to be selected
8 by it annually; and

9 (5) Five members appointed by the Governor by and with the advice and consent of the
10 Senate for overlapping terms of five years, one term expiring each year.

11 (b) Not less than one appointive member shall come from each congressional district. Any
12 vacancy among the appointed members shall be filled by the Governor by appointment for the
13 unexpired term.

14 (c) Employees of noncommercial broadcasting stations in West Virginia are not eligible for
15 appointment to the commission.

16 (d) The commission shall annually select a member to serve as the chair. The commission
17 shall annually select one of its public members as vice chair and shall appoint a secretary who
18 need not be a member of the commission and who shall keep records of its proceedings.

19 (e) The Cabinet Secretary of the Department of Tourism shall appoint the commission
20 section director and fix his or her salary. The commission section director is responsible for
21 managing and administering the daily functions of the commission and for performing all other
22 functions necessary to the effective operation of the commission. The commission may establish
23 offices for the proper performance of its duties.

24 (f) The commission shall hold at least one annual meeting. The time and place of the
25 meetings shall be established upon its own resolution or at the call of the chairperson of the
26 commission. The members shall serve without compensation but may be reimbursed for all
27 reasonable and necessary expenses actually incurred in the performance of their duties in a
28 manner consistent with the guidelines of the Travel Management Office of the Department of
29 Administration.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. ARTS, CULTURE AND HISTORY.

**§29-1-1. Abolishing the Department of Arts, Culture, and History and reorganizing its
sections under the Department of Tourism; sections and commissions; purposes;
definitions; effective date.**

1 (a) On July 1, 2025, the Department of Arts, Culture, and History, is abolished and its
2 authorities and duties transferred to the Department of Tourism.

3 (b) On July 1, 2025, the following sections and commissions shall be reorganized under
4 the Department of Tourism:

5 (1) The Arts Section;

6 (2) The Archives and History Section;

- 7 (3) The Museums Section;
- 8 (4) The Historic Preservation Section;
- 9 (5) The State Library Section;
- 10 (6) The National Coal Heritage Area Commission;
- 11 (7) The Administrative Section;
- 12 (8) The Educational Broadcasting Commission;
- 13 (9) A Commission on the Arts;
- 14 (10) A Commission on Archives and History;
- 15 (11) A Library Commission; and
- 16 (12) An Educational Broadcasting Council.

17 (c) On and after July 1, 2025, the Secretary of the Department of Tourism shall exercise
18 control and supervision over each section and commission listed in subsection (b) of this section
19 and shall be responsible for the projects, programs, and actions of each of its sections. The
20 purpose and duty of these sections and commissions is to advance, foster, and promote the
21 creative and performing arts and crafts, including both indoor and outdoor exhibits and
22 performances; to advance, foster, promote, identify, register, acquire, mark, and care for
23 historical, prehistorical, archaeological, and significant architectural sites, structures, and objects
24 in the state; to encourage the promotion, preservation, and development of significant sites,
25 structures, and objects through the use of economic development activities such as loans,
26 subsidies, grants, and other incentives; to coordinate all cultural, historical, and artistic activities
27 in state government and at state-owned facilities; to acquire, preserve, and classify books,
28 documents, records, and memorabilia of historical interest or importance; and, in general, to do
29 all things necessary or convenient to preserve and advance the arts, humanities, culture, and
30 history of the state.

31 (d) The Secretary of the Department of Tourism has jurisdiction and control and may set
32 and collect fees for the use of all space in the building presently known as the West Virginia

33 Science and Culture Center, including the deck and courtyards forming an integral part thereof;
34 the building presently known as West Virginia Independence Hall in Wheeling, including all the
35 grounds and appurtenances thereof; "Camp Washington Carver" in Fayette County, as provided
36 in §29-1-14 of this code; and any other sites as may be transferred to or acquired by the
37 department. Notwithstanding any provision of this code to the contrary, beginning on and after
38 July 1, 2018, the department shall have responsibility for, and control of, all visitor touring and
39 visitor tour guide activities within the Capitol Building at Charleston.

40 (e) For the purposes of this article, "department" means the Department of Tourism and
41 "secretary" means the Secretary of the Department of Tourism. On and after July 1, 2025,
42 references throughout this code to the "Commissioner of Culture and History" or the "Curator of
43 the Department of Arts, Culture, and History" mean the " Secretary of the Department of Tourism
44 and references throughout this code to the "Division of Culture and History" or "Department of
45 Arts, Culture, and History," mean the "Department of Tourism".

§29-1-1a. Transfer of powers and duties; existing contracts and obligations.

1 (a) Except as otherwise provided in this article, the powers and duties of the West Virginia
2 antiquities commission, the West Virginia arts and humanities council and the department of
3 archives and history are hereby transferred to the Department of Tourism.

4 (b) All existing assets, equipment, contracts, and records of the Department of Arts,
5 Culture, and History, the West Virginia antiquities commission, the West Virginia arts and
6 humanities council, and the department of archives and history, or relating to the present science
7 and culture center, shall be transferred to the Department of Tourism.

8 (c) Beginning on July 1, 2025, all employees of any section or commission listed in §29-
9 1-1(b) of this code shall be exempt from the state grievance procedures as set forth in §6C-2-1 *et*
10 *seq.* of this code and from the classified civil service system under §29-6-1 *et seq.* of this code
11 except that:

(1) All employees of any section or commission listed in §29-1-1(b) of this code who are currently members of the classified civil service system shall retain their status as long as they remain in their current position, and all employees of any section or commission listed in §29-1-1(b) of this code who currently have recourse to the state grievance procedures will continue to have access to the state grievance procedures as long as they remain in their current position; and

(2) Any employee of any section or commission listed in §29-1-1(b) of this code that leaves his or her position and remains an employee within the Department of Tourism shall, at that time, be transferred to the classified-exempt service system as defined in §29-6-2(g) of this code and be exempted from the state grievance procedures as set forth in §6C-2-1 *et seq.* of this code.

(d) The secretary shall have the authority to designate certain employees' status under the classified civil service system and grievance procedures as may be deemed necessary to comply with federal regulation, or the requirements for receipt of federal funding or assistance.

(e) Nothing in this article shall prevent a person, at the secretary's discretion, from serving in multiple positions or professions within the sections or commissions listed in §29-1-1(b) of this code.

(f) Subsection (c) of this section shall not apply to any position appointed by the Governor.

(g) Nothing in this section shall exempt any section or commission listed in §29-1-1(b) of this code from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

§29-1-2. General powers of secretary.

(a) The secretary shall assign and allocate space in all facilities assigned to the department and all space in the building presently known as the West Virginia Science and Culture Center, and any other buildings or sites under the control of the department, and may, in

4 accordance with the provisions of §29A-3-1 *et seq.* of this code, prescribe rules, regulations and
5 fees for the use and occupancy of said facilities, including tours.

6 (b) The secretary shall coordinate the operations and affairs of the sections and
7 commissions of the department and assign each section or commission responsibilities according
8 to criteria the curator deems most efficient, productive and best calculated to carry out the
9 purposes of this article. The secretary shall provide to the fullest extent possible for centralization
10 and coordination of the bookkeeping, personnel, purchasing, printing, duplicating, binding and
11 other services which can be efficiently combined. The secretary may establish such other sections
12 for such purposes as he or she deems necessary, and may appoint directors thereof. The
13 secretary may appoint a director of the West Virginia Science and Culture Center. The secretary
14 shall serve as the state historic preservation officer.

15 (c) The secretary shall prepare a proposed department budget for submission to the
16 Governor for each fiscal year.

17 (d) No contract, agreement or undertaking may be entered into by any section of the
18 department or any section thereof which involves the expenditure of funds without the express
19 written approval of the secretary as to fiscal responsibility.

20 (e) The secretary shall prepare and submit to the Governor an annual report in accordance
21 with the provisions of §5-1-20 of this code, which report shall include a detailed account of the
22 activities of each section and commission of the department.

23 (f) The secretary shall employ all personnel for the sections, except for persons in the
24 professional positions established within the sections as provided in this article; and shall supply
25 support services to the commissions and to the Governor's Mansion Advisory Committee.

26 (g) On and after July 1, 2025, the secretary may grant or withhold written consent to the
27 proposal of any rule, as defined by §29A-1-2 of this code, by any section or commission listed in
28 §29-1-1(b) of this code. Without the secretary's written consent, no proposal for a rule filed by any

section or commission listed in §29-1-1(b) of this code after July 1, 2025, shall have any force or effect.

(h) The secretary may proposal a repeal, pursuant to either §29A-3-1a(b) or §29A-3-8(c) of this code, as appropriate, of any rule promulgated by the Department of Arts, Culture, and History, the Division of Culture and History, or any section or commission listed in §29-1-1(b) of this code.

§29-1-3. Commission on the Arts.

(a) The Commission on the Arts is continued and shall be composed of 15 appointed voting members, the secretary as an ex officio voting member, the director of the arts section as an ex officio nonvoting member, and the ex officio nonvoting members set forth or authorized for appointment in this section.

(b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the voting members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight appointed voting members may be of the same political party. Appointed voting members of the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state, and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the voting members constitute a quorum for the transaction of business. The director of the arts section shall serve as secretary. The curator or a majority of the members also may call a meeting upon notice as provided in this section.

(4) Each member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of

the duties of the office; except that if the expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the case may be, may not be reimbursed by the state.

(5) Upon recommendation of the secretary, the Governor also may appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission may:

(1) Advise the secretary and the director of the arts section concerning the accomplishment of the purposes of that section and establish a state plan with respect to the arts section;

(2) Approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;

(3) Request, accept, or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit those actions by the secretary or section director, but would permit them to be done by the commission on the arts;

(4) Otherwise encourage and promote the purposes of the arts section.

(d) A special revenue account in the State Treasury, known as the "Cultural Facilities and Capital Resources Matching Grant Program Fund", is continued. The fund shall consist of moneys received under §29-22A-10 of this code and funds from any other source. The moneys in the fund shall be expended in accordance with the following:

(1) Fifty percent of the moneys deposited in the fund shall be expended by the Commission on the Arts for capital improvements, preservation, and operations of cultural facilities: *Provided*, That the Commission on the Arts may use no more than 25 percent of the funding for operations of cultural facilities pursuant to the rule required by this subdivision. The Commission on the Arts shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to create a matching grant program for cultural facilities and capital resources; and

(2) Fifty percent of the moneys deposited in the fund shall be expended by the Department of Tourism for:

45 (A) Capital improvements, preservation, and operation of cultural facilities that are
46 managed by the department; and

47 (B) Capital improvements, preservation, and operation of cultural facilities that are not
48 managed by the department.

§29-1-4. Arts section; director.

1 (a) The purposes and duties of the arts section are to stimulate, encourage, assist,
2 promote, foster and develop the performing and creative arts and crafts in the state; and in
3 furtherance thereof to make awards, prizes and grants to individual performers, artists or
4 craftsmen and to public or private corporations or associations in the field of either the performing
5 or creative arts and crafts that would tend to encourage and foster the advancement of such arts
6 and crafts; to support cultural, artistic or craft exhibits or performances at the department's
7 facilities or on tour; and to perform such other duties as may be assigned to said section by the
8 secretary.

9 (b) The secretary shall appoint a director of the arts section who is qualified, with relevant
10 experience.

11 (c) With the approval of the secretary, the director shall establish professional positions
12 within the section. The director shall employ the personnel within these professional positions for
13 the section: *Provided*, That nothing in this subsection shall prevent a qualified person from serving
14 in multiple professions within this section or any section listed in §29-1-1(b) of this code.

15 (d) The director may propose rules for legislative promulgation, in accordance with the
16 provisions of §29A-3-1 *et seq.* of this code, concerning the professional policies and functions of
17 the arts section, subject to the approval of the secretary.

§29-1-6. Archives and history section; director.

1 (a) The purposes and duties of the archives and history section are to locate, survey,
2 investigate, register, identify, preserve, protect, restore and recommend to the secretary for
3 acquisition documents and records having historical, evidential, administrative and/or legal value

4 relating to the State of West Virginia and the territory included in the state from the earliest times
5 to the present, upon its own initiative or in cooperation with any private or public society,
6 organization or agency; to conduct a continuing survey and study throughout the state to develop
7 a state plan to determine the needs and priorities for the preservation of the documents and
8 records; to direct, protect, preserve, study and disseminate information on the documents and
9 records; to provide matching grants to political subdivisions of this state to protect and preserve
10 the documents and records; to operate and maintain a state library for the preservation of all
11 public records, state papers, documents and reports of all three branches of state government
12 including all boards, commissions, departments and agencies as well as any other private or
13 public papers, books or documents of peculiar or historic interest or significance; to designate
14 appropriate monuments, tablets or markers for historic, architectural and scenic sites within the
15 state and to arrange for the purchase, replacement, care of, and maintenance of the monuments,
16 tablets, and markers and to formulate and prepare suitable copy for them; to edit and publish a
17 historical journal devoted to the history, biography, bibliography and genealogy of West Virginia;
18 and to perform any other duties assigned to the section by the commissioner.

19 (b) The secretary shall appoint a director of the archives and history section, who shall be
20 qualified, with relevant experience. The person serving as the state historian and archivist on the
21 date of enactment of this article is eligible for appointment as the director of the archives and
22 history section. The director of the archives and history section shall serve as the state historian
23 and archivist.

24 (c) With the approval of the secretary, the director shall establish professional positions
25 within the section and develop appropriate organizational structures to carry out the duties of the
26 section. The director shall employ the personnel with applicable professional qualifications to fill
27 positions within the organizational structure with the minimum professional qualifications. At the
28 minimum, the following professions shall be represented within the section staff: Historian,
29 archivist, librarian and technical and clerical positions as are required : *Provided*, That nothing in

30 this subsection shall prevent a qualified person from serving in multiple professions within this
31 section or any section listed in §29-1-1(b) of this code.

32 (d) The director shall promulgate rules with the approval of secretary and in accordance
33 with §29A-3-1 *et seq.* of this code concerning: (1) The professional policies and functions of the
34 archives and history section; and (2) any other rules determined necessary to effectuate the
35 purposes of this article.

§29-1-7. Museums section; director.

1 (a) The purposes and duties of the museums section are to locate, survey, investigate,
2 register, identify, excavate, preserve, protect, restore and recommend to the secretary for
3 acquisition historic objects worthy of preservation, relating to the State of West Virginia and the
4 territory included therein from the earliest times to the present, upon its own initiative or in
5 cooperation with any private or public society, organization or agency; to conduct a continuing
6 survey and study throughout the state to develop a state plan to determine the needs and priorities
7 for the preservation, restoration or development of such objects; to direct, protect, excavate,
8 preserve, study or develop such objects; to preserve and protect all battle or regimental flags
9 borne by West Virginians and other memorabilia of historic interest; to operate and maintain a
10 state museum, and to coordinate activities with other museums in the state; and to perform such
11 other duties as may be assigned to the section by the secretary.

12 (b) With the advice and consent of the secretary, in addition to the duties above set forth,
13 the section shall determine the whereabouts of and require the return of furnishings and objects
14 missing from the capitol building and other state-owned or controlled buildings, including, but not
15 limited to, furnishings chosen or purchased for the capitol by its architect, Cass Gilbert. No
16 furnishings from the capitol may be sold or disposed of except pursuant to the provisions of §5A-
17 3-1 *et seq.* of this code. If furnishings originally designated as capitol building furnishings have
18 been sold or otherwise disposed of without the requisite sale procedures, such furnishings shall
19 be returned to the capitol and, upon presentation of proof of the amount paid, the current owner

shall be reimbursed for the cost of the furnishing less any appropriate depreciation or wear and tear.

(c) The secretary shall appoint a director of the museums section, who shall be qualified, with relevant experience.

(d) With the approval of the secretary, the director shall establish professional positions within the section and develop appropriate organizational structures to carry out the duties of the section. The director shall employ the personnel with applicable professional qualifications to fill positions within the organizational structure and section. At the minimum, the following professions shall be represented within the section staff: Curator and such technical and clerical positions as are required: *Provided*, That nothing in this subsection shall prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

(e) The director shall promulgate rules with the approval of the secretary and in accordance with §29A-3-1 *et seq.* of this code concerning: (1) The professional policies and functions of the museums section; and (2) such other rules and regulations as may be deemed necessary to effectuate the purposes of this section.

§29-1-8. Historic preservation section; director.

(a) The purposes and duties of the historic preservation section are to locate, survey, investigate, register, identify, preserve, protect, restore and recommend to the secretary for acquisition historic, architectural, archaeological and cultural sites, structures and objects worthy of preservation, including human skeletal remains, graves, grave artifacts and grave markers, relating to the State of West Virginia and the territory included therein from the earliest times to the present upon its own initiative or in cooperation with any private or public society, organization or agency; to conduct a continuing survey and study throughout the state to develop a state plan to determine the needs and priorities for the preservation, restoration or development of the sites, structures and objects; to direct, protect, excavate, preserve, study or develop the sites and

structures; to review all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state for the purposes of furthering the duties of the section; to carry out the duties and responsibilities enumerated in the National Historic Preservation Act of 1966, as amended, as they pertain to the duties of the section; to develop and maintain a West Virginia State Register of Historic Places for use as a planning tool for state and local government; to cooperate with state and federal agencies in archaeological work; to issue permits for the excavation or removal of human skeletal remains, grave artifacts and grave markers, archaeological and prehistoric and historic features under the provisions of §29-1-8a of this code; and to perform any other duties as may be assigned to the section by the secretary.

(b) The secretary shall appoint a director of the historic preservation section who shall be qualified, with relevant experience. The director of the historic preservation section shall serve as the deputy state historic preservation officer.

(c) With the approval of the secretary, the director shall establish professional positions within the section and develop appropriate organizational structures to carry out the duties of the section. The director shall employ the personnel with applicable professional qualifications to fill positions within the organizational structure with the minimum professional qualifications necessary to carry out the provisions of the National Historic Preservation Act of 1966, as amended. At the minimum, the following professions shall be represented within the section staff: Historian, architectural historian, a structural historian who specializes in historical preservation, an archaeologist specializing in historic and prehistoric archaeology and such technical and clerical positions as are required : *Provided*, That nothing in this subsection shall prevent a qualified person from serving in multiple professions within this section or any section listed in §29-1-1(b) of this code.

(d) The director shall promulgate rules with the approval of the secretary and in accordance with §29A-3-1 *et seq.* of this code concerning: (1) The professional policies and functions of the historic preservation section; (2) the review of and, when required, issuance of

permits for all undertakings permitted, funded, licensed or otherwise assisted, in whole or in part, by the state as indicated in subsection (a) of this section in order to carry out the duties and responsibilities of the section; (3) the establishment and maintenance of a West Virginia State Register of Historic Places, including the criteria for eligibility of buildings, structures, sites, districts and objects for the state Register and procedures for nominations to the state Register and protection of nominated and listed properties; (4) the review of historic structures in accordance with compliance alternatives and other provisions in any state fire regulation and shall coordinate standards with the appropriate regulatory officials regarding their application; (5) review of historic structures in conjunction with existing state or local building codes and shall coordinate standards with the appropriate regulatory officials for their application; and (6) any other rules as may be considered necessary to effectuate the purposes of this article.

§29-1-8c. State Library Section.

(a) There is hereby continued a West Virginia State Library Section under the Department of Tourism.

(b) The State Library Commission is continued as an advisory council to support the West Virginia State Library Section, and shall consist of the secretary as an ex officio voting member and six voting members.

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

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

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

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

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

18 (c)The secretary shall appoint a library section director, to carry out the duties and
19 functions of the State Library Section outlined in this section. The library section director shall be
20 qualified, with relevant experience. The library section director shall also serve as the Secretary
21 of the State Library Commission for the purpose of board meetings.

22 (d)The State Library Commission shall advise the Secretary of the Department of Tourism
23 and the library section director on carrying out certain duties and functions of the State Library
24 Section, as provided in this section.

25 (e) *General authority of the State Library Section.* —

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

31 (2) The State Library Section may:

32 (A) Receive gifts of money, books, or other property which may be used or held for the
33 purpose or purposes given; and may purchase and operate traveling libraries under such
34 conditions and rules as the commission deems necessary to protect the interests of the state and
35 best increase the efficiency of the service it is expected to render the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) State Library Section—disposition of monetary gifts. —

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

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

(h) Regional libraries and library areas — establishment and location. —

(1) The State Library Commission is hereby authorized to develop a plan for the establishment and location of regional libraries, and library areas throughout the state, based on a detailed survey to be made by the State Library Commission of the needs of the various localities of the state. A region shall include two or more counties.

(2) On completion of such survey of any proposed region, the State Library Commission shall report their findings to the State Library Section and the state library director, who may refer the proposal to the county commissions or councils of all the counties included in such proposed

91 region. The county commissions or councils may act upon such proposal by resolution, and the
92 votes of a majority of each of the county commissions or councils of the counties included in the
93 proposed region shall be necessary for the adoption of such proposal. The proposal may be
94 amended and resubmitted as necessary.

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

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

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

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

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

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

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

110 (G) Make such bylaws, rules, and regulations not inconsistent with this article as may be
111 expedient for the government of regional library areas and the regional libraries therein, and for
112 the purpose of carrying out the provisions of this article; and

113 (H) Accept for the State of West Virginia any appropriations of money that may hereafter
114 be made out of the federal treasury by an act or acts of Congress and to disburse such funds for
115 the purpose of carrying out the provisions of this article, in accordance with §18-10-11 and §18-
116 10-12 of this code.

117 (i) *Aid to libraries by State Library Section.*—

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

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

131 (j) *Collection and preservation of library data; surveys; employment of personnel; use of*
132 *data.* —

133 (1) The State Library Section may collect and preserve statistics and other data,
134 concerning libraries of any sort located within this state; to make surveys relating to the needs or
135 conditions of such libraries or the library conditions of any city, town, county, regional library area,
136 or other subdivision of this state; and to publish the results and findings thereof in accordance
137 with the provisions of this section.

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

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

142 (k) *Confidential nature of certain library records.* —

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

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

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

(C) Upon appropriate court order or subpoena.

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

(l) Library Facilities Improvement Fund.—

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

(2) The fund shall consist of moneys received from the following sources:

(A) All appropriations made by the Legislature to the fund;

(B) Any moneys available from sources outside the State Library Section;

(C) Repayment of loans made by the State Library Section pursuant to this section; and

(D) All interest and other income earned from investment of moneys in the fund.

(3) The State Library Section shall utilize moneys in the fund to support public library facilities construction, renovation, maintenance, and improvement projects. The State Library Section shall evaluate potential recipient projects of funds from the fund on a competitive basis.

(A) The State Library Section may provide loans to public libraries to support energy savings and critical maintenance projects with moneys in the fund.

(B) With the exception of loans made under this section, the State Library Section may not expend any money from the fund toward a particular project unless the proposed expenditure is matched on a dollar-for-dollar basis by other sources.

(4) The State Library Section shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this section. The rule shall contain at least the following:

(A) A process for submitting and reviewing proposals;

(B) The content of proposals;

(C) Criteria for evaluating proposals; and

(D) Other provisions the State Library Section considers necessary to administer the program in accordance with this section.

(5) Any balance, including accrued interest and any other returns, in the fund at the end of each fiscal year will not expire to the General Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

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

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

192 (m) Any rules promulgated by the Library Commission will remain in full force and effect
193 until amended, repealed, or superseded by another rule promulgated by the Library Commission
194 or State Library Section.

§29-1-9. Administrative section; director.

1 The purposes and duties of the administrative section are to provide centralized support
2 to the division in all areas of operations.

3 The secretary shall appoint a director of the administrative section, to serve at the will and
4 pleasure of the secretary, who is qualified, with relevant experience.

5 With approval of the secretary, the director of the administrative section shall establish
6 professional positions within the section.

§29-1-10. Division employees classified by civil service; exceptions.

1 [Repealed.]

**§29-1-11. Power to accept and receive funds; power to apply for grants; disbursement of funds;
restrictions on expenditure; disposition of funds heretofore received or
appropriated.**

1 (a) The secretary may, in the name of the State of West Virginia, accept and receive
2 grants, appropriations, gifts, bequests and funds from any public or private source for the purpose
3 of carrying out the duties and purposes of this article.

4 (b) The secretary may, through the, apply for grants from the federal government, private
5 foundations and any other source for the purposes of this article.

6 (c) All funds received from any source shall be paid into the Treasury of the state and
7 disbursed upon warrant by the State Auditor following requisition by the division. The requisitions
8 shall be signed by the secretary or by another person as the secretary may authorize by written
9 document deposited with the Auditor or, in the event of emergency, by the Governor or the
10 Governor's designee.

11 (d) No funds or gifts received from any source shall be expended or used for any purpose
12 other than that intended as evidenced by a positive and affirmative declaration or by a negative
13 restriction or limitation.

14 (e) The department may assist in the promotion and operation of an annual state fair and
15 other regional or local fairs and festivals entitled to aid when funds are available and to expend
16 those funds for the support and development of fairs and festivals.

17 (f) All federal or state funds received to provide grants-in-aid or awards to further the
18 purposes of this article shall be approved and distributed by the secretary.

§29-1-12. Publication of materials; agreements.

1 The department shall have the power, responsibility and duty to publish or republish
2 material of prehistorical, historical, archaeological, architectural or cultural interest. The
3 department may sell such publications as well as postcards and other items of such interest at
4 the state museum or any other site or property administered by the state or at any special event
5 sponsored by the state. The department shall have the right to enter into agreements with
6 responsible individuals, private historical, archaeological, architectural or cultural associations,
7 foundations or similar organizations or any agency of the federal, state or local government for
8 the purpose of carrying out its purposes or for raising money to fund the functions of the
9 department under this article.

§29-1-13. Land; control and disposal; rules and regulations.

1 All land owned or leased by the department pursuant to this article shall be titled in the
2 name of the public land corporation of West Virginia but shall be controlled, administered and
3 supervised by the department. The secretary may sell or dispose of any real or personal property
4 which, in his or her opinion, does not have sufficient prehistorical, historical, archaeological,
5 architectural or cultural value to justify its retention.

6 The secretary shall have the power to make and promulgate rules and regulations relating
7 to the general management and administration of this article.

§29-1-14. Washington-Carver Camp; prohibition of disposition or removal of minerals without authorization by the Legislature.

1 Washington-Carver Camp in Fayette County, heretofore transferred to the public land
2 corporation under the control, administration, and supervision of the department, shall continue
3 under the department's control, administration and supervision.

4 The department shall undertake to develop such cultural and multicultural, artistic,
5 humanistic and educational programs at the camp as will serve and benefit the citizens of the
6 state and the many cultures represented therein. In order to ensure the maximum reasonable
7 utilization of that portion of the camp under its jurisdiction, the department shall, during times the
8 camp is not being used for the department's purposes, make the camp available, under such
9 terms as the department deems proper, to any other agency of government or nonprofit group
10 desiring to use the camp. The camp shall retain the name "Camp Washington-Carver" as
11 indicative of its heritage of serving the black citizens of the state. The department is authorized to
12 provide necessary and suitable equipment and other resources for implementing the provisions
13 of this section.

14 No minerals may be assigned, leased or otherwise encumbered, sold, mined, or removed
15 with respect to the property heretofore transferred or the mineral rights retained without specific
16 authorization by the Legislature.

§29-1-15. Development or improvement on land; State Historic Preservation Office; rules and regulations.

1 All development or improvement on land, including any disturbance in a right-of-way,
2 construction project, or infrastructure project, subject to review by the State Historic Preservation
3 Office or by any other section or commission listed in §29-1-1(b) of this code for prehistorical,
4 historical, archaeological, architectural, or cultural value shall be conducted in the most expedient
5 manner possible. The department shall not add any additional impediment to such review beyond
6 those required by applicable Federal laws, rules, and regulations and shall have no authority to

7 comment, regulate, or otherwise cause another governmental entity to comment upon or regulate,
8 that activity, except in consideration for primacy or continued federal funding.

9 The secretary shall have the power to make and promulgate rules in in conformity with
10 this section, and the secretary shall modify, upon the effective date of this legislation, any active
11 rule in conflict with the provisions of this section.

The Clerk of the House of Delegates and the Clerk of the Senate hereby
certify that the foregoing bill is correctly enrolled.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect July 1, 2025.

.....
Speaker of the House of Delegates

.....
President of the Senate

The within is this the.....
Day of, 2025.

.....
Governor