

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Originating

House Bill 2009

By Delegate Phillips

[Originating in the Committee on Government

Organization; Reported on February 27, 2025]

1 A BILL to amend and reenact §5B-2I-2, §5B-2I-4, §5F-2-1, §10-5-2, §29-1-1, §29-1-1a, §29-1-2,
2 §29-1-3, §29-1-4, §29-1-6, §29-1-7, §29-1-8, §29-1-8c, §29-1-8d, §29-1-9, §29-1-11, §29-
3 1-12, §29-1-13, §29-1-14, and §29-1-15 of the Code of West Virginia, 1931, as amended;
4 and to repeal §5F-1-3a, §5F-1-6, and §29-1-10, relating to the merging and reorganizing of
5 the executive branch; abolishing the Department of Arts, Culture, and History and
6 reorganizing its sections and commissions under the Department of Tourism; specifying
7 the authority of the Secretary of the Department of Tourism over these sections and
8 commissions; correcting titles of affected departments, divisions, and positions based on
9 the redesignations; specifying that starting on July 1, 2025, new hires and anyone who
10 moves positions within the Department of Tourism shall be in the classified exempt service
11 system and shall be exempt from the state grievance procedures; governing and providing
12 for the Secretary of the Department of Tourism authority to appoint the directors of the
13 sections listed in §29-1-1(b) of this code; substituting the title of Secretary of the
14 Department of Tourism for the Secretary of the Department of Arts, Culture, and History in
15 several sections of code; granting Secretary of Tourism authority to approve or repeal rules
16 promulgated by sections and commissions listed in §29-1-1(b) of this code; specifying that
17 starting on July 1, 2025, new hires and employee that moves positions within the sections
18 and commissions shall be in the classified exempt service system and shall be exempt
19 from the state grievance procedures; granting the Secretary of the Department of Tourism
20 discretion to allow a person to serving in multiple positions or professions within the
21 sections listed in §29-1-1(b) of this code; removing certain specific qualifications for
22 persons appointed as directors of the various sections listed in §29-1-1(b) of this code; and
23 technical 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, ~~West Virginia Tourism Office~~, previously
2 continued from the West Virginia Tourism Office and the Division of Tourism, is hereby continued
3 ~~but is hereafter raised to a separate and distinct~~ as a department of the executive branch of state
4 government and is designated and shall be known as the West Virginia Department of Tourism. All
5 references in this code to the Division of Tourism or to the West Virginia Tourism Office shall be
6 construed as references to the West Virginia Department of Tourism. As used in this article,
7 "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:

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

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

16 (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; and

(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.

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

(f) The Department of Tourism may engage and retain one or more advertising and marketing agencies, consultants, enterprises, firms, or persons, as deemed by the secretary, in his

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

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

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

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

(1) All employees of the Department of Tourism 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 the Department of Tourism 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 the Department of Tourism 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.

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

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

~~(j)~~ (i) 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.

~~(j)~~ (k) 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.

~~(k)~~ (l) 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.

~~(t)~~ (m) 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.

[Repealed.]

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

[Repealed.]

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following boards Board of Coal Mine Health and Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code are transferred to the Office of Miners' Health, Safety, and Training for purposes of administrative support and liaison with the Office of the Governor.

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

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

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

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

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

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

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

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development;

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

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

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

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

(e) The West Virginia Educational Broadcasting Authority Commission provided in §10-5-1 *et seq.* of this code is continued as a separate agency within the Department of Arts, Culture, and History Tourism, which shall provide administrative support for the authority.

~~(f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is continued as an agency within the Executive Branch as the Department of Arts, Culture, and History. All references throughout this code to the "Division of Culture and History" mean the "Department of Arts, Culture, and History".~~

~~(g)~~(f) The following agencies and boards, including all of the allied, advisory, and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the Office of the Governor:

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

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

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

61 this code;

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

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

64 ~~(6)~~(5) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

65 ~~(7)~~(6) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

66 ~~(h)~~(g) Subject to the provisions of §5F-2-1a of this code, the following agencies and
67 boards, including all of the allied, advisory, affiliated, or related entities and funds associated with
68 any agency or board, are incorporated in and administered as a part of the Department of Health:

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

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

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

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

74 (5) The Developmental Disabilities Council established by Executive Order No. 6-88 and
75 continued by Executive Order No. 15-99;

76 ~~(i)~~(h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards,
77 including all of the allied, advisory, affiliated, or related entities and funds associated with any
78 agency or board, are incorporated in, and administered as a part of, the Department of Human
79 Services:

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

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

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

85 (1) West Virginia State Police;

86 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and

Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule promulgated thereunder, a reference is made to the Division of Homeland Security and Emergency Management, it shall be construed to mean the Division of Emergency Management;

(3) Division of Administrative Services;

(4) Division of Corrections and Rehabilitation;

(5) Fire Commission;

(6) State Fire Marshal;

(7) Board of Probation and Parole;

(8) The West Virginia Fusion Center;

(9) Division of Protective Services; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(s)~~(r) The Department of Tourism as established in §5B-21-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch, which includes the following sections and commissions listed under §29-1-1 of this code:

(1) The Arts Section;

(2) The Archives and History Section;

(3) The Museums Section;

(4) The Historic Preservation Section;

(5) The State Library Section;

(6) The National Coal Heritage Area Commission;

(7) The Administrative Section;

(8) The Educational Broadcasting Commission;

- 165 (9) A Commission on the Arts;
166 (10) A Commission on Archives and History;
167 (11) A Library Commission; and
168 (12) An Educational Broadcasting Council.

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

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.

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

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

(a) ~~The Division of Culture and History heretofore created is hereby continued as~~ On July 1, 2025, the Department of Arts, Culture, and History, is abolished and its authorities and duties transferred to the Department of Tourism. ~~The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the Cabinet Secretary of Arts, Culture, and History, who shall be the chief executive officer of the department and shall be paid an annual salary as provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A bachelor's degree in~~

7 ~~one of the fine arts, social sciences, library science, or a related field; or (2) four years' experience~~
8 ~~in the administration of museum management, public administration, arts, history, or a related~~
9 ~~field.~~

10 (b) ~~The department shall consist of~~ On July 1, 2025, the following eight sections and
11 commissions as follows shall be reorganized under the Department of Tourism:

12 (1) The Arts Section;

13 (2) The Archives and History Section;

14 (3) The Museums Section;

15 (4) The Historic Preservation Section;

16 (5) The State Library Section;

17 (6) The National Coal Heritage Area Commission;

18 (7) The Administrative Section; ~~and~~

19 (8) The Educational Broadcasting Commission;

20 ~~(c) The department shall also consist of four citizens commissions as follows:~~

21 ~~(1)~~ (9) A Commission on the Arts;

22 ~~(2)~~ (10) A Commission on Archives and History;

23 ~~(3)~~ (11) A Library Commission; and

24 ~~(4)~~ (12) An Educational Broadcasting Council.

25 ~~(d) (c)~~ On and after July 1, 2025, The the Secretary of the Department of Tourism shall
26 exercise control and supervision of the department over each section and commission listed in
27 subsection (b) of this section and shall be responsible for the projects, programs, and actions of
28 each of its sections. The purpose and duty of ~~the department~~ these sections and commissions is to
29 advance, foster, and promote the creative and performing arts and crafts, including both indoor
30 and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire,
31 mark, and care for historical, prehistorical, archaeological, and significant architectural sites,
32 structures, and objects in the state; to encourage the promotion, preservation, and development of

33 significant sites, structures, and objects through the use of economic development activities such
34 as loans, subsidies, grants, and other incentives; to coordinate all cultural, historical, and artistic
35 activities in state government and at state-owned facilities; to acquire, preserve, and classify
36 books, documents, records, and memorabilia of historical interest or importance; and, in general,
37 to do all things necessary or convenient to preserve and advance the arts, humanities, culture, and
38 history of the state. ~~In the furtherance of these purposes and duties, the secretary shall report~~
39 ~~directly to the Governor as a secretary for both the intrinsic and extrinsic value for individuals,~~
40 ~~communities, and the economy of the arts, humanities, culture, and history in West Virginia. As~~
41 ~~such, the secretary shall represent the Department of Arts, Culture, and History as a full~~
42 ~~participating member in meetings of the secretaries of the departments created in §5F-1-2 of this~~
43 ~~code that are convened at the call of the Governor.~~

44 ~~(e)(d)~~ The department the Secretary of the Department of Tourism has jurisdiction and
45 control and may set and collect fees for the use of all space in the building presently known as the
46 West Virginia Science and Culture Center, including the deck and courtyards forming an integral
47 part thereof; the building presently known as West Virginia Independence Hall in Wheeling,
48 including all the grounds and appurtenances thereof; "Camp Washington Carver" in Fayette
49 County, as provided in §29-1-14 of this code; and any other sites as may be transferred to or
50 acquired by the department. Notwithstanding any provision of this code to the contrary, beginning
51 on and after July 1, 2018, the department shall have responsibility for, and control of, all visitor
52 touring and visitor tour guide activities within the Capitol Building at Charleston.

53 ~~(f)(e)~~ For the purposes of this article, ~~"commissioner" or "curator" means the Cabinet~~
54 ~~Secretary of Arts, Culture, and History, and "division" or "department" means the Department of~~
55 ~~Arts, Culture and History. Department of Tourism and "secretary" means the Secretary of the~~
56 ~~Department of Tourism. References throughout~~ On and after July 1, 2025, references throughout
57 this code to the "Commissioner of Culture and History" "or the Curator of the Department of Arts,
58 Culture, and History" mean the "Cabinet Secretary of Arts, Culture, and History", Secretary of the

59 Department of Tourism and references throughout this code to the "Division of Culture and
60 History" or "Department of Arts, Culture, and History," mean the "Department of Arts, Culture, and
61 History 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 Division of Culture and History~~ the Department
4 of Tourism.

5 (b) All existing assets, equipment, contracts, and records obligations of the Department of
6 Arts, Culture, and History, the West Virginia antiquities commission, the West Virginia arts and
7 humanities council, and the department of archives and history, or relating to the present science
8 and culture center, shall be transferred to ~~remain in full force and effect and shall be performed by~~
9 ~~the Division of Culture and History~~ the Department of Tourism.

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

14 (1) All employees of any section or commission listed in §29-1-1(b) of this code who are
15 currently members of the classified civil service system shall retain their status as long as they
16 remain in their current position, and all employees of any section or commission listed in §29-1-
17 1(b) of this code who currently have recourse to the state grievance procedures will continue to
18 have access to the state grievance procedures as long as they remain in their current position; and

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

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

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

§29-1-2. General powers of ~~curator~~ secretary.

(a) The ~~curator~~ 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 ~~curator~~ department, and may, in accordance with the provisions of §29A-3-1 *et seq.* of this code, prescribe rules, regulations and fees for the use and occupancy of said facilities, including tours.

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

(c) ~~After consultation with the section directors and the commissions, the curator~~ The secretary shall prepare a proposed department budget for submission to the Governor for each fiscal year.

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

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

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

(g) On and after July 1, 2025, the secretary may grant or withhold written consent to the proposal of any rule, as defined by §29A-1-2 of this code, by any section or commission listed in §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 Curator of the West Virginia Department of Arts, Culture and History~~ 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. Effective July 1, 2004, no more than three voting members may be from the same regional educational service agency district created in §18-2-26 of this code. 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 ~~curator~~ 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 ~~curator~~ 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 ~~curator~~ 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;

~~(5) Approve rules concerning the professional policies and functions of the section as~~

~~promulgated by the director of the arts section; and~~

~~(6) Advise and consent to the appointment of the director by the curator.~~

(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 Arts, Culture and History Tourism for:

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

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

~~(e) The commission shall undertake a study, solicit designs, and make recommendations for the establishment of an appropriate memorial on state capitol grounds for soldiers killed in the conflicts in Iraq, Afghanistan, and other locations who died fighting the United States War on Terror, and to recognize and honor the West Virginians who lost their lives in these conflicts. The commission shall consult with the Capitol Building Commission and state veterans, including veterans groups and Gold Star mothers of those lost in these conflicts, prior to adoption of a proposal for the memorial. The commission shall provide a report to the Legislature's Joint Committee on Government and Finance by January 1, 2022, including recommendations for~~

64 ~~design and location of the memorial and estimated construction costs.~~

§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 ~~division's~~
7 department's facilities or on tour; and to perform such other duties as may be assigned to said
8 section by the ~~commissioner~~secretary.

9 (b) ~~With the advice and consent of the commission on the arts, the commissioner~~ The
10 secretary shall appoint a director of the arts section, ~~who shall have: (1) A bachelor's degree in the~~
11 ~~fine arts or related field or equivalent training and experience; or (2) three years' experience in~~
12 ~~administration of the fine arts or a related field who is qualified, with relevant experience.~~

13 (c) With the approval of the ~~commissioner~~secretary, the director shall establish
14 professional positions within the section. The director shall employ the personnel within these
15 professional positions for the section. Provided, That nothing in this subsection shall prevent a
16 qualified person from serving in multiple professions within this section or any section listed in §29-
17 1-1(b) of this code.

18 (d) The director may propose rules for legislative promulgation, in accordance with the
19 provisions of ~~chapter twenty-nine a~~§29A-3-1 et seq. of this code, concerning the professional
20 policies and functions of the arts section, subject to the approval of the ~~commission on the arts~~
21 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 ~~commissioner~~

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

19 (b) ~~With the advice and consent of the archives and history commission, the commissioner~~
20 The secretary shall appoint a director of the archives and history section, who shall have: ~~(1) A~~
21 ~~graduate degree in one of the social sciences, or equivalent training and experience in the field of~~
22 ~~West Virginia history, history, or in records, library or archives management; and (2) three years'~~
23 ~~experience in administration in the field of West Virginia history, history, or in records, library or~~
24 ~~archives management~~ be qualified, with relevant experience. ~~Notwithstanding these~~
25 ~~qualifications, the~~ The person serving as the state historian and archivist on the date of enactment
26 of this article is eligible for appointment as the director of the archives and history section. The
27 director of the archives and history section shall serve as the state historian and archivist.

28 (c) With the approval of the ~~commissioner~~ 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. At the minimum, the following professions shall be represented within the section staff: Historian, archivist, librarian and 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 ~~archives and history commission~~ secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code concerning: (1) The professional policies and functions of the archives and history section; and (2) any other rules determined necessary to effectuate the purposes of this article.

§29-1-7. Museums section; director.

(a) The purposes and duties of the museums section are to locate, survey, investigate, register, identify, excavate, preserve, protect, restore and recommend to the ~~commissioner~~ secretary for acquisition historic objects worthy of preservation, 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 such objects; to direct, protect, excavate, preserve, study or develop such objects; to preserve and protect all battle or regimental flags borne by West Virginians and other memorabilia of historic interest; to operate and maintain a state museum, and to coordinate activities with other museums in the state; and to perform such other duties as may be assigned to the section by the ~~commissioner~~ secretary.

(b) With the advice and consent of the ~~archives and history commission~~ secretary, in addition to the duties above set forth, the section shall determine the whereabouts of and require the return of furnishings and objects missing from the capitol building and other state-owned or

15 controlled buildings, including, but not limited to, furnishings chosen or purchased for the capitol by
16 its architect, Cass Gilbert. No furnishings from the capitol may be sold or disposed of except
17 pursuant to the provisions of ~~article three, chapter five-a~~ §5A-3-1 et seq. of this code. If furnishings
18 originally designated as capitol building furnishings have been sold or otherwise disposed of
19 without the requisite sale procedures, such furnishings shall be returned to the capitol and, upon
20 presentation of proof of the amount paid, the current owner shall be reimbursed for the cost of the
21 furnishing less any appropriate depreciation or wear and tear.

22 ~~(c) With the advice and consent of the archives and history commission, the commissioner~~
23 The secretary shall appoint a director of the museums section, who shall have: ~~(1) A graduate~~
24 ~~degree in one of the social sciences, or equivalent training and experience in the field of West~~
25 ~~Virginia history, history, archaeology, or in museum administration; and (2) three years' experience~~
26 ~~in administration in the field of West Virginia history, history, archaeology, or in museum~~
27 ~~management~~ be qualified, with relevant experience.

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

38 (e) The director shall promulgate rules and regulations with the approval of the archives
39 and history commission secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq.
40 of this code concerning: (1) The professional policies and functions of the museums section; and

41 (2) such other rules and regulations as may be deemed necessary to effectuate the purposes of
42 this section.

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

1 (a) The purposes and duties of the historic preservation section are to locate, survey,
2 investigate, register, identify, preserve, protect, restore and recommend to the ~~commissioner~~
3 secretary for acquisition historic, architectural, archaeological and cultural sites, structures and
4 objects worthy of preservation, including human skeletal remains, graves, grave artifacts and
5 grave markers, relating to the State of West Virginia and the territory included therein from the
6 earliest times to the present upon its own initiative or in cooperation with any private or public
7 society, organization or agency; to conduct a continuing survey and study throughout the state to
8 develop a state plan to determine the needs and priorities for the preservation, restoration or
9 development of the sites, structures and objects; to direct, protect, excavate, preserve, study or
10 develop the sites and structures; to review all undertakings permitted, funded, licensed or
11 otherwise assisted, in whole or in part, by the state for the purposes of furthering the duties of the
12 section; to carry out the duties and responsibilities enumerated in the National Historic
13 Preservation Act of 1966, as amended, as they pertain to the duties of the section; to develop and
14 maintain a West Virginia State Register of Historic Places for use as a planning tool for state and
15 local government; to cooperate with state and federal agencies in archaeological work; to issue
16 permits for the excavation or removal of human skeletal remains, grave artifacts and grave
17 markers, archaeological and prehistoric and historic features under the provisions of ~~section eight-~~
18 ~~a of this article~~ §29-1-8a of this code; and to perform any other duties as may be assigned to the
19 section by the ~~commissioner~~ secretary.

20 (b) ~~With the advice and consent of the Archives and History Commission, the~~
21 ~~commissioner~~ The secretary shall appoint a director of the historic preservation section who shall
22 have: ~~(1) A graduate degree in one of the social sciences or equivalent training and experience in~~
23 ~~the field of historic preservation, archaeology, West Virginia history or history; and (2) three years'~~

24 ~~experience in administration in the field of West Virginia history, history, historic preservation or~~
25 ~~archaeology~~ be qualified, with relevant experience. The director of the historic preservation
26 section shall serve as the deputy state historic preservation officer.

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

38 (d) The director shall promulgate rules with the approval of the ~~archives and history~~
39 ~~commission~~ secretary and in accordance with ~~chapter twenty-nine-a~~ §29A-3-1 et seq. of this code
40 concerning: (1) The professional policies and functions of the historic preservation section; (2) the
41 review of and, when required, issuance of permits for all undertakings permitted, funded, licensed
42 or otherwise assisted, in whole or in part, by the state as indicated in subsection (a) of this section
43 in order to carry out the duties and responsibilities of the section; (3) the establishment and
44 maintenance of a West Virginia State Register of Historic Places, including the criteria for eligibility
45 of buildings, structures, sites, districts and objects for the state Register and procedures for
46 nominations to the state Register and protection of nominated and listed properties; (4) the review
47 of historic structures in accordance with compliance alternatives and other provisions in any state
48 fire regulation and shall coordinate standards with the appropriate regulatory officials regarding
49 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 ~~created~~continued a West Virginia State Library Section under the Department of ~~Arts, Culture, and History~~ 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 ~~Curator~~secretary of the ~~Department of Arts, Culture, and History~~ 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;

(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; and

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

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

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

~~(b) (c) The Curator of the Department of Arts, Culture, and History~~ secretary shall appoint a library section director, ~~with the advice and consent of the State Library Commission~~, to carry out the duties and functions of the State Library Section outlined in this section ~~through the Department of Arts, Culture, and History library section~~. The library section director shall have at least the following qualifications: A master's degree from an American Library Association-

24 ~~accredited program in a library-related discipline and three years of management or administrative~~
25 ~~work experience in a library~~ be qualified, with relevant experience. The library section director shall
26 also serve as the Secretary of the State Library Commission for the purpose of board meetings.

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

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

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

36 (2) The State Library Section may:

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

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

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

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

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

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

~~(e)~~(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.

~~(f)~~ (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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) ~~(j)~~ Collection and preservation of library data; surveys; employment of personnel; use of data.

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

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

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

~~(j)~~ (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.

~~(k)~~ (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.

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

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

(a)(1) The National Coal Heritage Area originally was a partnership project of the National Park Service and the State of West Virginia as represented by the Division of Tourism and the Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28 experts from the state and the region to the National Coal Heritage Area Steering Committee to provide guidance in the development of the National Coal Heritage Area, and in 2002 the West

Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an independent board, to serve as the management entity for the National Coal Heritage Area.

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

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

(b) Unless the context clearly requires a different meaning, the terms used in this section have the following meanings:

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

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

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

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

(1) There is hereby created the National Coal Heritage Area Commission which is a ~~division~~ section of the Department of Arts, Culture, and History Tourism, existing for the purposes of providing direction to and assistance with state and federal historic preservation, economic development, and tourism projects in the National Coal Heritage Area and aiding in the

development and implementation of integrated cultural, historical, and land resource management policies and programs in order to retain, enhance, and interpret the significant values of the lands, waters, and structures in the National Coal Heritage Area.

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

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

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

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

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

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

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

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

(B) The remaining 13 members shall be appointed for terms of four years by the Governor with the advice and consent of the Senate. The county commission of each county within the National Coal Heritage Area may submit to the Governor a list of three candidates to be considered for board appointment. Of the 13 members appointed by the Governor, each candidate must live or work within the subject county and the appointees shall be representative of the tourism industry, the coal industry, the United Mine Workers of America, economic development activity, historic preservation activity, or higher education. Additional counties may submit names of individuals fitting the above criteria for consideration as ex-officio, non-voting, board membership;

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

(D) If an appointed member is unable to complete a term, the Governor shall appoint a

58 person to complete the unexpired term. Each vacancy occurring on the board must be filled within
59 60 days after the vacancy is created;

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

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

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

76 (d) *Board; quorum; chairperson; bylaws.—*

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

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

82 (3) There shall be a standing committee of the National Coal Heritage Area Commission
83 known as the Coal Heritage Trail Committee composed of the chairperson and members of the

84 National Coal Heritage Area from the counties through which the Coal Heritage Trail passes.
85 These counties are Mercer, McDowell, Wyoming, Raleigh, and Fayette. This standing committee
86 shall be responsible for making recommendations to the full board regarding development and
87 promotion of the Coal Heritage Trail, a national scenic byway.

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

92 (e) *Powers of commission.*—

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

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

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

99 (3) To enter into partnerships with various preservation groups, landmark commissions,
100 certified local governments, county commissions, and other entities to undertake the preservation,
101 restoration, maintenance, operation, development, interpretation, and promotion of lands and
102 structures that possess unique and significant historic, architectural, and cultural value associated
103 with the coal mining heritage of the national coal heritage area;

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

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

108 (6) To execute contracts necessary or convenient for carrying on its business, including
109 contracts with any other governmental agency of this state or of the federal government, or with

any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

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

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

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

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

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

(12) To assess and collect a reasonable fee from those persons who use the designated facilities which are part of the national coal heritage area, and to retain and utilize that revenue for any purposes consistent with this article.

(f) Continuation of legal obligations. —

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

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

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

3 The ~~commissioner~~secretary shall appoint a director of the administrative section, to serve
4 at the will and pleasure of the secretary, who is qualified, with relevant experience. ~~who shall have~~
5 ~~a bachelor's degree and two years' experience in responsible positions involving office~~
6 ~~management, public administration, budget and fiscal administration, or related fields; or six years'~~
7 ~~experience as outlined above. Notwithstanding these qualifications, the person serving as director~~
8 ~~of the administrative section on the date of enactment of this section shall be eligible for~~
9 ~~appointment as director of the administrative section.~~

10 With approval of the ~~commissioner~~secretary, the director of the administrative section
11 shall establish 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 ~~division~~ secretary may, in the name of the State of West Virginia, ~~through the~~
2 ~~commissioner or its commissions,~~ accept and receive grants, appropriations, gifts, bequests and
3 funds from any public or private source for the purpose of carrying out the duties and purposes of
4 this article.

5 (b) The ~~division~~ secretary may, through the ~~commissioner or its commissions,~~ apply for
6 grants from the federal government, private foundations and any other source for the purposes of
7 this article.

8 (c) All funds received from any source shall be paid into the Treasury of the state and
9 disbursed upon warrant by the State Auditor following requisition by the division. The requisitions
10 shall be signed by the secretary ~~commissioner~~ or by another person as the ~~commissioner~~

11 secretary may authorize by written document deposited with the Auditor or, in the event of
12 emergency, by the Governor or the Governor's designee.

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

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

19 (f) All federal or state funds received to provide grants-in-aid or awards to further the
20 purposes of this article shall be approved and distributed by ~~the appropriate commission~~
21 ~~established~~ _____ ~~by~~ _____ ~~this~~ _____ ~~article~~ _____ secretary.

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

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

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

1 All land owned or leased by the ~~Division of Culture and History~~ department pursuant to this
2 article shall be titled in the name of the public land corporation of West Virginia but shall be
3 controlled, administered and supervised by the ~~division~~ department. The ~~division, in the discretion~~
4 ~~of its commissioner~~ secretary may sell or dispose of any real or personal property which, in his or

her opinion, does not have sufficient prehistorical, historical, archaeological, architectural or cultural value to justify its retention.

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

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

Washington-Carver Camp in Fayette County, heretofore transferred to the public land corporation under the control, administration, and supervision of the ~~Division of Culture and History~~ department, shall continue under the department's control, administration and supervision of ~~the division~~.

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

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

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

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 ~~agency, office, or component of the Division of Culture and History~~ section or
4 commission listed in §29-1-1(b) of this code for prehistorical, historical, archaeological,
5 architectural, or cultural value shall be conducted in the most expedient manner possible. The
6 ~~division~~ department shall not add any additional impediment to such review beyond those required
7 by applicable Federal laws, rules, and regulations and shall have no authority to comment,
8 regulate, or otherwise cause another governmental entity to comment upon or regulate, that
9 activity, except in consideration for primacy or continued federal funding.

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

NOTE: The purpose of this bill is to abolish the Department of Arts, Culture, and History and reorganize its sections and commissions within the Department of Tourism.

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