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2004 APR -6 P 3: 34

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

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**ENROLLED**

## House Bill No. 4008

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)  
[By Request of the Executive]

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Passed March 13, 2004

In Effect Ninety Days from Passage

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SECRETARY OF STATE

**E N R O L L E D**

**H. B. 4008**

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)  
[BY REQUEST OF THE EXECUTIVE]

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §5-10D-1, §5-10D-2 and §5-10D-3 of the code of West Virginia, 1931, as amended; to amend and reenact §5-16-3 and §5-16-4 of said code; to amend said code by adding thereto a new section, designated §5-16-4a; to amend and reenact §5A-1-2 of said code; to amend said code by adding thereto a new article, designated §5A-10-1, §5A-10-2 and §5A-10-3; and to amend and reenact §29-6-5 and §29-6-6 of said code, all relating to creating a new employee and insurance services division within the department of administration and revising the law governing its component agencies and boards; providing that the division incorporate the consolidated public retirement board, the public employees insurance agency, the board of risk and insurance management, the children's health insurance agency, the education and state employees grievance board and the personnel division; creating the office of commissioner of the division; providing for the powers and duties of the commissioner; authorizing the commissioner to consolidate or reorganize certain internal functions and operations, transfer funds within the agencies and assess agencies with costs; providing that the commissioner chair certain boards and appoint directors of

component state agencies within the division; providing for sunset review of division and office of commissioner; establishing employment requirements for director of public employees insurance agency; and adding members to public employees insurance agency finance board.

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

That §5-10D-1, §5-10D-2 and §5-10D-3 of the code of West Virginia, 1931, as amended, be amended and reenacted; that §5-16-3 and §5-16-4 of said code be amended and reenacted; that said code be further amended by adding thereto a new section, designated §5-16-4a; that §5A-1-2 of said code be amended and reenacted; that said code be further amended by adding thereto a new article, designated §5A-10-1, §5A-10-2 and §5A-10-3; and that §29-6-5 and §29-6-6 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE AND ATTOR-  
NEY GENERAL; BOARD OF PUBLIC WORKS; MISCEL-  
LANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.**

**§5-10D-1. Consolidated public retirement board continued;  
members; vacancies; investment of plan funds.**

1       (a) The consolidated public retirement board is continued  
2 to administer all public retirement plans in this state. It shall  
3 administer the public employees retirement system established  
4 in article ten of this chapter; the teachers retirement system  
5 established in article seven-a, chapter eighteen of this code; the  
6 teachers' defined contribution retirement system created by  
7 article seven-b of said chapter; the West Virginia state police  
8 death, disability and retirement fund created by article two,  
9 chapter fifteen of this code; the West Virginia state police  
10 retirement system created by article two-a of said chapter; the

11 death, disability and retirement fund for deputy sheriffs created  
12 by article fourteen-d, chapter seven of this code; and the judges'  
13 retirement system created under article nine, chapter fifty-one  
14 of this code.

15 (b) The membership of the consolidated public retirement  
16 board consists of:

17 (1) The governor or his or her designee;

18 (2) The state treasurer or his or her designee;

19 (3) The state auditor or his or her designee;

20 (4) The commissioner of the employee and insurance  
21 services division of the department of administration;

22 (5) Four residents of the state, who are not members,  
23 retirants or beneficiaries of any of the public retirement  
24 systems, to be appointed by the governor, with the advice and  
25 consent of the Senate; and

26 (6) A member, annuitant or retirant of the public employees  
27 retirement system who is or was a state employee; a member,  
28 annuitant or retirant of the public employees retirement system  
29 who is not or was not a state employee; a member, annuitant or  
30 retirant of the teachers retirement system; a member, annuitant  
31 or retirant of the West Virginia state police death, disability and  
32 retirement fund; a member, annuitant or retirant of the deputy  
33 sheriff's death, disability and retirement fund; and a member,  
34 annuitant or retirant of the teachers' defined contribution  
35 retirement system, all to be appointed by the governor, with the  
36 advice and consent of the Senate.

37 (c) The appointed members of the board shall serve  
38 five-year terms. A member appointed pursuant to subdivision  
39 (6), subsection (b) of this section ceases to be a member of the

11 death, disability and retirement fund for deputy sheriffs created  
12 by article fourteen-d, chapter seven of this code; and the judges'  
13 retirement system created under article nine, chapter fifty-one  
14 of this code.

15 (b) The membership of the consolidated public retirement  
16 board consists of:

17 (1) The governor or his or her designee;

18 (2) The state treasurer or his or her designee;

19 (3) The state auditor or his or her designee;

20 (4) The commissioner of the employee and insurance  
21 services division of the department of administration;

22 (5) Four residents of the state, who are not members,  
23 retirants or beneficiaries of any of the public retirement  
24 systems, to be appointed by the governor, with the advice and  
25 consent of the Senate; and

26 (6) A member, annuitant or retirant of the public employees  
27 retirement system who is or was a state employee; a member,  
28 annuitant or retirant of the public employees retirement system  
29 who is not or was not a state employee; a member, annuitant or  
30 retirant of the teachers retirement system; a member, annuitant  
31 or retirant of the West Virginia state police death, disability and  
32 retirement fund; a member, annuitant or retirant of the deputy  
33 sheriff's death, disability and retirement fund; and a member,  
34 annuitant or retirant of the teachers' defined contribution  
35 retirement system, all to be appointed by the governor, with the  
36 advice and consent of the Senate.

37 (c) The appointed members of the board shall serve  
38 five-year terms. A member appointed pursuant to subdivision  
39 (6), subsection (b) of this section ceases to be a member of the

40 board if he or she ceases to be a member of the represented  
41 system. If a vacancy occurs in the appointed membership, the  
42 governor, within sixty days, shall fill the vacancy by appoint-  
43 ment for the unexpired term. No more than five appointees shall  
44 be of the same political party.

45 (d) The consolidated public retirement board has all the  
46 powers, duties, responsibilities and liabilities of the public  
47 employees retirement system established pursuant to article ten  
48 of this chapter; the teachers retirement system established  
49 pursuant to article seven-a, chapter eighteen of this code; the  
50 teachers' defined contribution system established pursuant to  
51 article seven-b of said chapter; the West Virginia state police  
52 death, disability and retirement fund created pursuant to article  
53 two, chapter fifteen of this code; the death, disability and  
54 retirement fund for deputy sheriffs created pursuant to article  
55 fourteen-d, chapter seven of this code; and the judges' retire-  
56 ment system created pursuant to article nine, chapter fifty-one  
57 of this code and their appropriate governing boards. The  
58 consolidated public retirement board may propose for promul-  
59 gation all rules necessary to effectuate its powers, duties and  
60 responsibilities pursuant to article three, chapter twenty-nine-a  
61 of this code: *Provided*, That the board may adopt any or all of  
62 the rules, previously promulgated, of a retirement system which  
63 it administers.

64 (e) The consolidated public retirement board shall continue  
65 to transfer all funds received for the benefit of the retirement  
66 systems within the consolidated pension plan as defined in  
67 section three-c, article six-b, chapter forty-four of this code,  
68 including, but not limited to, all employer and employee  
69 contributions, to the West Virginia investment management  
70 board: *Provided*, That the employer and employee contributions  
71 of the teachers' defined contribution system, established in  
72 section three, article seven-b, chapter eighteen of this code, and  
73 voluntary deferred compensation funds invested by the West

74 Virginia consolidated public retirement board pursuant to  
75 section five, article ten-b of this chapter may not be transferred  
76 to the West Virginia investment management board.

77 (f) Notwithstanding any provision of this code or any  
78 legislative rule to the contrary, all assets of the public retire-  
79 ment plans set forth in subsection (a) of this section shall be  
80 held in trust. The consolidated public retirement board shall be  
81 a trustee for all public retirement plans, except with regard to  
82 the investment of funds: *Provided*, That the consolidated public  
83 retirement board shall be a trustee with regard to the invest-  
84 ments of the teachers' defined contribution system, the volun-  
85 tary deferred compensation funds invested pursuant to section  
86 five, article ten-b of this chapter and any other assets of the  
87 public retirement plans administered by the consolidated public  
88 retirement board as set forth in subsection (a) of this section for  
89 which no trustee has been expressly designated in this code.

90 (g) The board may employ the West Virginia investment  
91 management board to provide investment management consult-  
92 ing services for the investment of funds in the teachers' defined  
93 contribution system.

**§5-10D-2. Chairman and vice chairman; executive director;  
employees; legal advisor; actuary.**

1 (a) The board shall elect from its own number a chairman  
2 and vice chairman.

3 (b) The board shall appoint an executive director of the  
4 retirement systems. The executive director shall be the chief  
5 administrative officer of all the systems and he or she shall not  
6 be a member of the board. He or she shall perform such duties  
7 as are required of him or her in this article and as the board  
8 from time to time delegates to him or her. The compensation of  
9 the executive director shall be fixed by the board subject to the  
10 approval of the governor. The executive director shall, with the

11 approval of the board of trustees, employ any administrative,  
12 technical and clerical employees required in the proper opera-  
13 tion of the systems.

14 (c) Notwithstanding the provisions of section two, article  
15 three of this chapter, the board shall employ and be represented  
16 by an attorney licensed to practice law in the state of West  
17 Virginia who is not an active member of any of the retirement  
18 systems administered by the board.

19 (d) An actuary, employed by the state or the board pursuant  
20 to section four of this article, shall be the actuarial consultant to  
21 the board.

**§5-10D-3. Board meetings; quorum; vote; proceedings; compensation.**

1 (a) The board shall hold a meeting at least once each three  
2 months, and shall designate the time and place of the meeting.  
3 Seven voting trustees constitute a quorum at any meeting of the  
4 board. Each member is entitled to one vote on each question  
5 before the board. The board shall adopt its own rules of  
6 procedure and shall keep a record of its proceedings. All  
7 meetings of the board shall be public.

8 (b) The members shall serve as members without compen-  
9 sation for their services as such: *Provided*, That each member  
10 shall be reimbursed, upon approval of the board, for any  
11 necessary expenses actually incurred by him or her in carrying  
12 out his or her duties. No public employee member may suffer  
13 any loss of salary or wages on account of his or her service as  
14 trustee.

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-3. Composition of public employees insurance agency; appointment, qualification, compensation and duties of director of agency; employees; civil**



**service coverage; director vested after specified date with powers of public employees insurance board.**

1 (a) The public employees insurance agency consists of the  
2 director, the finance board, the advisory board and any employ-  
3 ees who may be authorized by law. The director shall be  
4 appointed by the commissioner of the employee and insurance  
5 services division of the department of administration. The  
6 director shall have at least three years' experience in health or  
7 governmental health benefit administration as his or her  
8 primary employment duty prior to appointment as director. The  
9 director shall be employed pursuant to an employment contract  
10 which may have a multi-year term, not to exceed five years per  
11 contract. Notwithstanding any other provision of this code to  
12 the contrary, the director's salary shall be set by the commis-  
13 sioner of the employee and insurance services division, with the  
14 approval of the secretary of the department of administration.  
15 The current director shall continue to be eligible to serve as  
16 director through the thirtieth day of June, two thousand four.  
17 The director shall receive actual expenses incurred in the  
18 performance of official business. The director shall employ any  
19 administrative, technical and clerical employees required for  
20 the proper administration of the insurance programs provided  
21 for in this article. The director shall perform the duties that are  
22 required of him or her under the provisions of this article and is  
23 the chief administrative officer of the public employees  
24 insurance agency. The director may employ a deputy director.

25 (b) All positions in the agency, except for the director, his  
26 or her personal secretary, the deputy director and the chief  
27 financial officer shall be included in the classified service of the  
28 civil service system pursuant to article six, chapter twenty-nine  
29 of this code. Any person required to be included in the classi-  
30 fied service by the provisions of this subsection who was  
31 employed in any of the positions included in this subsection on

32 or after the effective date of this article shall not be required to  
33 take and pass qualifying or competitive examinations upon or  
34 as a condition to being added to the classified service: *Pro-*  
35 *vided*, That no person required to be included in the classified  
36 service by the provisions of this subsection who was employed  
37 in any of the positions included in this subsection as of the  
38 effective date of this section shall be thereafter severed,  
39 removed or terminated in his or her employment prior to his or  
40 her entry into the classified service except for cause as if the  
41 person had been in the classified service when severed, re-  
42 moved or terminated.

43 (c) The director is responsible for the administration and  
44 management of the public employees insurance agency as  
45 provided for in this article and in connection with his or her  
46 responsibility may make all rules necessary to effectuate the  
47 provisions of this article. Nothing in section four or five of this  
48 article limits the director's ability to manage on a day-to-day  
49 basis the group insurance plans required or authorized by this  
50 article, including, but not limited to, administrative contracting,  
51 studies, analyses and audits, eligibility determinations, utiliza-  
52 tion management provisions and incentives, provider negotia-  
53 tions, provider contracting and payment, designation of covered  
54 and noncovered services, offering of additional coverage  
55 options or cost containment incentives, pursuit of coordination  
56 of benefits and subrogation, or any other actions which would  
57 serve to implement the plan or plans designed by the finance  
58 board. The director is to function as a benefits management  
59 professional and should avoid political involvement in manag-  
60 ing the affairs of the public employees insurance agency.

**§5-16-4. Public employees insurance agency finance board contin-  
ued; qualifications, terms and removal of members;  
quorum; compensation and expenses; termination  
date.**

1 (a) The public employees insurance agency finance board,  
2 is continued and consists of the commissioner of the employee  
3 and insurance services division of the department of administra-  
4 tion and eight members appointed by the governor with the  
5 advice and consent of the Senate for terms of four years and  
6 until the appointment of their successors. Members may be  
7 reappointed for successive terms. No more than five members  
8 (including the commissioner) may be of the same political  
9 party.

10 (b) Of the eight members appointed by the governor, one  
11 member shall represent the interests of education employees,  
12 one shall represent the interests of public employees, one shall  
13 represent the interests of retired employees, one shall represent  
14 the interests of organized labor and four shall be selected from  
15 the public at large. The governor shall appoint the member  
16 representing the interests of education employees from a list of  
17 three names submitted by the largest organization of education  
18 employees in this state. The governor shall appoint the member  
19 representing the interests of organized labor from a list of three  
20 names submitted by the state's largest organization representing  
21 labor affiliates. The four members appointed from the public  
22 shall each have experience in the financing, development or  
23 management of employee benefit programs. All appointments  
24 shall be selected to represent the different geographical areas  
25 within the state and all members shall be residents of West  
26 Virginia. No member may be removed from office by the  
27 governor except for official misconduct, incompetence, neglect  
28 of duty, neglect of fiduciary duty or other specific responsibility  
29 imposed by this article, or gross immorality.

30 (c) The commissioner of the employee and insurance  
31 services division shall serve as chair of the finance board,  
32 which shall meet at times and places specified by the call of the  
33 chair or upon the written request to the chair of at least two  
34 members. The director of the public employees insurance

35 agency shall serve as staff to the board. Notice of each meeting  
36 shall be given in writing to each member by the director at least  
37 three days in advance of the meeting. Five members constitute  
38 a quorum. The board shall pay each member the same compen-  
39 sation and expense reimbursement that is paid to members of  
40 the Legislature for their interim duties, as recommended by the  
41 citizens legislative compensation commission and authorized  
42 by law for each day or portion of a day engaged in the discharge  
43 of official duties.

44 (d) Upon termination of the board and notwithstanding any  
45 provisions in this article to the contrary, the director is autho-  
46 rized to assess monthly employee premium contributions and  
47 to change the types and levels of costs to employees only in  
48 accordance with this subsection. Any assessments or changes  
49 in costs imposed pursuant to this subsection shall be imple-  
50 mented by legislative rule proposed by the director for promul-  
51 gation pursuant to the provisions of article three, chapter  
52 twenty-nine-a of this code; any employee assessments or costs  
53 previously authorized by the finance board shall then remain in  
54 effect until amended by rule of the director promulgated  
55 pursuant to this subsection.

**§5-16-4a. Continuation of the public employees insurance agency  
finance board.**

1 The public employees insurance agency finance board shall  
2 continue to exist, pursuant to the provisions of article ten,  
3 chapter four of this code, until the first day of July, two  
4 thousand five, unless sooner terminated, continued or reestab-  
5 lished pursuant to the provisions of that article.

**CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

**ARTICLE 1. DEPARTMENT OF ADMINISTRATION.**

**§5A-1-2. Department of administration and office of secretary;  
secretary; divisions; directors.**

1 (a) The department of administration and the office of  
2 secretary of administration are continued in the executive  
3 branch of state government. The secretary shall be the chief  
4 executive officer of the department and shall be appointed by  
5 the governor, by and with the advice and consent of the Senate,  
6 for a term not exceeding the term of the governor.

7 (b) The department of administration may receive federal  
8 funds.

9 (c) The secretary shall serve at the will and pleasure of the  
10 governor. The annual compensation of the secretary shall be as  
11 specified in section two-a, article seven, chapter six of this  
12 code.

13 (d) There shall be in the department of administration a  
14 finance division, a general services division, an information  
15 services and communications division, an employee and  
16 insurance services division and a purchasing division. Each  
17 division shall be headed by a director who may also head any  
18 and all sections within that division and who shall be appointed  
19 by the secretary, except that the commissioner of the employee  
20 and insurance services division shall be appointed by the  
21 governor with the advice and consent of the Senate as provided  
22 in article ten of this chapter. In addition to the divisions  
23 enumerated in this subsection, there shall also be in the depart-  
24 ment of administration those agencies, boards, commissions  
25 and councils specified in section one, article two, chapter five-f  
26 of this code.

**ARTICLE 10. Employee and insurance services division.**

**§5A-10-1. Division created; purpose and functions; cooperation.**

1 (a) There is created within the department of administra-  
2 tion, an employee and insurance services division. The follow-  
3 ing agencies of the department of administration are incorpo-  
4 rated within the employee and insurance services division:

5 (1) The consolidated public retirement board provided for  
6 in article ten-d, chapter five of this code and the retirement  
7 programs administered by the board;

8 (2) The public employees insurance agency and associated  
9 boards provided for in article sixteen, chapter five of this code;

10 (3) The division of personnel provided for in article six,  
11 chapter twenty-nine of this code;

12 (4) The board of risk and insurance management provided  
13 for in article twelve, chapter twenty-nine of this code;

14 (5) The childrens health insurance agency and associated  
15 boards provided for in article sixteen-b, chapter five of this  
16 code; and

17 (6) The education and state employees grievance board  
18 provided for in article six-a, chapter twenty-nine of this code.

19 (b) The purpose and function of the division of employee  
20 and insurance services is to preserve the integrity of a system of  
21 personnel administration for state agencies based on merit  
22 principles; to provide to the state employees who are stake-  
23 holders, fairness, confidence and security in the administration  
24 of state insurance and retirement benefit plans; to provide for  
25 long-term fiscal security and enhance the state's ability to  
26 assure its fiscal obligations under its insurance, risk and benefit  
27 plans; to promote loss control in state programs and agencies;  
28 and to coordinate and consolidate technical functions of the  
29 component agencies while preserving inviolate their separate  
30 trust responsibilities.

31 (c) The director of the purchasing division and the chief  
32 technology officer within the office of the governor shall  
33 cooperate and provide assistance in the consolidation, reorgani-  
34 zation and integration of functions of the division and its  
35 component agencies and programs, and shall expedite all  
36 reasonable requests in order to assure efficient and adequate  
37 systems support.

38 (d) Any agency or board incorporated into the division  
39 pursuant to subsection (a) of this section which disagrees with  
40 an action of the commissioner may refer the disagreement to  
41 the secretary for review.

**§5A-10-2. Creation of office of commissioner of the employee and  
insurance services division; qualifications; powers  
and duties.**

1 (a) The office of commissioner of the employee and  
2 insurance services division is created. On the effective date of  
3 this section, the director of the former insurance and retirement  
4 division shall serve as acting commissioner of the employee  
5 and insurance services division and shall immediately assume  
6 the duties of the office. Not later than the thirtieth day of  
7 January, two thousand five, the governor shall appoint the  
8 commissioner with the advice and consent of the Senate, to  
9 serve at the will and pleasure of the governor, at a salary to be  
10 established by the governor. The commissioner shall have  
11 knowledge in the areas of self-insured risk pools and employee  
12 benefit program administration, knowledge of the special trust  
13 requirements of benefit programs with respect to stakeholders,  
14 and an understanding of the special demands upon government  
15 with respect to budgetary constraints, the protection of public  
16 funds, and federal and state standards of accountability.

17 (b) The commissioner may:

18 (1) Coordinate overall policy within the division;

19           (2) Propose comprehensive budgets for consideration by the  
20 secretary of the department of administration and the governor;

21           (3) Develop and provide to the governor, the speaker of the  
22 House of Delegates and the president of the Senate, on an  
23 annual basis, long-range financial forecasts for the insurance  
24 and benefit programs administered by the division, which shall  
25 include cash-flow projections for future budget years, based on  
26 known facts and reasonable, clearly stated actuarial assump-  
27 tions;

28           (4) Interact with stakeholders, staff of the component  
29 agencies and outside agencies to develop long-term strategies  
30 for delivering quality services, reducing unfunded liabilities,  
31 and assuring the fiscal viability of programs;

32           (5) Propose and provide to the governor, the speaker of the  
33 House of Delegates and the president of the Senate, on an  
34 annual basis, long-term strategic plans to provide for the fiscal  
35 security of the programs administered by the agencies within  
36 the division and minimize the fiscal burden upon limited state  
37 resources;

38           (6) Employ and discharge, with the approval of the secre-  
39 tary of the department of administration, employees within the  
40 office of the commissioner, to serve at the will and pleasure of  
41 the commissioner;

42           (7) Eliminate or consolidate positions, with the approval of  
43 the secretary of the department of administration, other than  
44 positions of administrators or positions of board members, and  
45 name a person to fill more than one position;

46           (8) Delegate, assign, transfer or combine responsibilities or  
47 duties to or among employees, other than administrators or  
48 board members;



- 49       (9) Reorganize internal functions or operations;
- 50       (10) Transfer within the division, with the approval of the  
51 secretary of the department of administration, funds appropri-  
52 ated to the various agencies of the division: *Provided*, That no  
53 funds may be transferred from a claims payment account,  
54 retiree benefit account, trust account or any other account or  
55 funds specifically exempted by the Legislature from transfer:  
56 *Provided, however*, That authority to transfer funds pursuant to  
57 this section expires on the thirtieth day of June, two thousand  
58 five;
- 59       (11) Enter into contracts or agreements requiring the  
60 expenditure of public funds, and authorize the expenditure or  
61 obligating of public funds as authorized by law;
- 62       (12) Acquire by lease or purchase property of whatever  
63 kind or character, and convey or dispose of any property of  
64 whatever kind or character as authorized by law;
- 65       (13) Conduct internal audits;
- 66       (14) Supervise internal management;
- 67       (15) Recommend to the secretary the promulgation of rules  
68 to implement and make effective the powers, authority and  
69 duties granted and imposed by the provisions of this article. The  
70 rules, unless specifically exempted in accordance with the  
71 provisions of this code, shall be proposed in accordance with  
72 the provisions of chapter twenty-nine-a of this code;
- 73       (16) Delegate duties to administrators in order to facilitate  
74 execution of the powers, authority and duties of the commis-  
75 sioner;

76 (17) Consolidate data, accounting and claims administration  
77 systems and propose to the secretary of the department of  
78 administration the termination or renegotiation of contracts;

79 (18) Take any other action involving or relating to internal  
80 management not otherwise prohibited by law;

81 (19) With approval of the secretary of the department of  
82 administration, assess all agencies within the employee and  
83 insurance services division a reasonable amount to cover the  
84 costs of the division; and

85 (20) Promote combined purchasing of components within  
86 the division.

87 (c) The commissioner shall work cooperatively with the  
88 consolidated public retirement board and the public employees  
89 insurance agency to acquire and implement combined data  
90 systems for the retirement and health plans administered by the  
91 consolidated public retirement board and the public employees  
92 insurance agency. Beginning on the first day of January, two  
93 thousand five, and continuing until the combined data system  
94 is fully implemented, the commissioner shall provide to the  
95 joint committee on government and finance, or any other  
96 committee as the Legislature directs, monthly updates on the  
97 development and implementation of the system.

98 (d) Nothing contained in this section may be construed to  
99 limit the powers of the secretary of the department of adminis-  
100 tration pursuant to chapter five-f of this code, or to enlarge the  
101 power and authority granted to any agency or administrator  
102 within the division. Nothing contained in this section may be  
103 construed to limit the rights of any beneficiary of a retirement  
104 or benefit program arising by operation of law or any trust  
105 instrument. No power granted to the commissioner may be  
106 exercised if to do so would violate or be inconsistent with the  
107 separate fiduciary responsibilities with respect to the respective

108 funds under the commissioners' authority, or with the provi-  
109 sions of any federal law or regulation, any federal-state program  
110 or federally delegated program, or jeopardize the approval,  
111 existence or funding of any program. The powers granted to the  
112 commissioner to enter into contracts or agreements and to make  
113 expenditures or obligations of public funds under this provision  
114 may not exceed or be interpreted as authority to exceed the  
115 powers previously granted by the Legislature to the various  
116 administrators or board members of the various agencies or  
117 boards that comprise and are incorporated into the division.  
118 Nothing contained in this section may be construed to limit the  
119 rights of employees within the classified service of the state as  
120 provided in subsection (d), section two, article two, chapter  
121 five-f of this code.

**§5A-10-3. Continuation of division.**

1 The division of employee and insurance services and the  
2 office of commissioner of the division of employee and  
3 insurance services shall continue to exist, pursuant to the  
4 provisions of article ten, chapter four of this code, until the first  
5 day of July, two thousand five, unless sooner terminated,  
6 continued or reestablished pursuant to the provisions of that  
7 article.

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

**ARTICLE 6. CIVIL SERVICE COMMISSION.**

**§29-6-5. Division of personnel continued; sections.**

1 (a) The division of personnel is continued within the  
2 employee and insurance services division of the department of  
3 administration.

4 (b) The division of personnel shall perform the following  
5 functions:

6 (1) Applicant services;

7 (2) Classification and compensation;

8 (3) Management development and training;

9 (4) Program evaluation and payroll;

10 (5) Employee services;

11 (6) Employee relations; and

12 (7) Administrative and staff services.

13 (c) The commissioner of the employee and insurance  
14 services division shall establish any sections of the division that  
15 are necessary to carry out the functions of the division and the  
16 purposes of this article. Each section shall be under the control  
17 of a section chief to be appointed by the director who shall be  
18 qualified by reason of exceptional training and experience in  
19 the field of activities of the respective section.

**§29-6-6. State personnel board continued; members; term;  
quorum; vacancies; powers and duties.**

1 (a) There is continued within the division a state personnel  
2 board which consists of the commissioner of the employee and  
3 insurance services division or his or her designee, who shall  
4 serve as an ex officio member and five members appointed by  
5 the governor with the advice and consent of the Senate for  
6 terms of four years and until the appointment of their succes-  
7 sors. No more than four members may be of the same political  
8 party. Four members of the board constitute a quorum.

9 (b) A member of the board may not be removed from office  
10 except for official misconduct, incompetence, neglect of duty,  
11 gross immorality or malfeasance, and then only in the manner  
12 prescribed in article six, chapter six of this code for the removal  
13 by the governor of state elected officers.

14 (c) Citizen members of the board shall each be paid one  
15 hundred dollars for each day devoted to the work of the board.  
16 Each member shall be reimbursed for all reasonable and  
17 necessary expenses actually incurred in the performance of his  
18 or her duties, except that in the event the expenses are paid, or  
19 are to be paid, by a third party, the members shall not be  
20 reimbursed by the state.

21 (d) The commissioner of the employee and insurance  
22 services division of the department of administration or his or  
23 her designee shall serve as chair of the board. The board shall  
24 meet at the time and place specified by the call of the chair. At  
25 least one meeting shall be held in each month. All meetings  
26 shall be open to the public. Notice of each meeting shall be  
27 given in writing to each member by the director at least three  
28 days in advance of the meeting period.

29 (e) In addition to other powers and duties invested in it by  
30 this article or by any other law, the board shall:

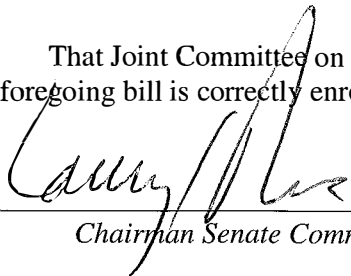
31 (1) Propose rules for promulgation in accordance with  
32 chapter twenty-nine-a of this code to implement the provisions  
33 of this article;

34 (2) Interpret the application of this article to any public  
35 body or entity; and

36 (3) Authorize and conduct any studies, inquiries, investiga-  
37 tions or hearings in the operation of this article it considers  
38 necessary.

39 (f) The director or the board may subpoena and require the  
40 attendance of witnesses in the production of evidence or  
41 documents relevant to any proceeding under this article.

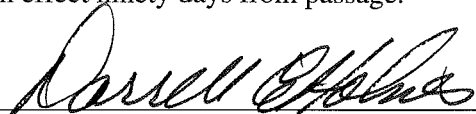
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

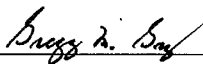
  
Chairman Senate Committee


  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

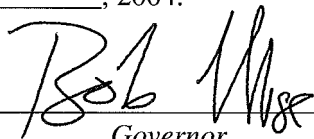
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 6<sup>th</sup>  
day of April, 2004.

  
Governor

PRESENTED TO THE  
GOVERNOR  
DATE 4/1/84  
TIME 7:35 am

~~PRESENTED TO THE  
GOVERNOR~~