

SB 454 5

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 454

(BY SENATORS BOWMAN AND KESSLER)

[Passed March 10, 2007; in effect from passage.]

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[Passed March 10, 2007; in effect from passage.]

AN ACT to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-2B-6 and §5B-2B-9 of said code; to amend and reenact §5F-2-1 of said code; and to amend and reenact §21A-1-4 of said code, all relating to the Bureau of Employment Programs; changing the agency name from the Bureau of Employment Programs to Workforce West Virginia; revising the divisional structure within the agency; and providing that Workforce West Virginia shall provide administrative and other services to the West Virginia Workforce Investment Council.

Be it enacted by the Legislature of West Virginia:

That §5B-1-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §5B-2B-6 and §5B-2B-9 of said code be amended and reenacted; that §5F-2-1 of said code be amended and reenacted; and that §21A-1-4 of said code be amended and reenacted, all to read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-2. Agencies, boards, commissions, divisions and offices comprising the Department of Commerce.

1 The Department of Commerce consists of the
2 following agencies, boards, commissions, divisions and
3 offices, including all of the allied, advisory, affiliated or
4 related entities, which are incorporated in and
5 administered as part of the Department of Commerce:

6 (1) Division of Labor provided in article one, chapter
7 twenty-one of this code, which includes:

8 (A) Occupational Safety and Health Review
9 Commission provided in article three-a, chapter twenty-
10 one of this code; and

11 (B) Board of Manufactured Housing Construction and
12 Safety provided in article nine, chapter twenty-one of
13 this code;

14 (2) Office of Miners' Health, Safety and Training
15 provided in article one, chapter twenty-two-a of this
16 code. The following boards are transferred to the Office
17 of Miners' Health, Safety and Training for purposes of
18 administrative support and liaison with the Office of the
19 Governor:

20 (A) Board of Coal Mine Health and Safety and Coal
21 Mine Safety and Technical Review Committee provided
22 in article six, chapter twenty-two-a of this code;

23 (B) Board of Miner Training, Education and
24 Certification provided in article seven, chapter twenty-
25 two-a of this code; and

26 (C) Mine Inspectors' Examining Board provided in
27 article nine, chapter twenty-two-a of this code;

28 (3) The West Virginia Development Office, which
29 includes the Division of Tourism and the Tourism
30 Commission, provided in article two, chapter five-b of
31 this code;

32 (4) Division of Natural Resources and Natural
33 Resources Commission provided in article one, chapter
34 twenty of this code;

35 (5) Division of Forestry provided in article one-a,
36 chapter nineteen of this code;

37 (6) Geological and Economic Survey provided in
38 article two, chapter twenty-nine of this code;

39 (7) Workforce West Virginia provided in chapter
40 twenty-one-a of this code, which includes:

41 (A) Division of Unemployment Compensation;

42 (B) Division of Employment Service;

43 (C) Division of Workforce Development; and

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

46 (8) Division of Energy provided in article one, chapter
47 five-h of this code.

ARTICLE 2B. WEST VIRGINIA WORKFORCE INVESTMENT ACT.

§5B-2B-6. Administration of council.

1 (a) Workforce West Virginia shall provide
2 administrative and other services to the council as the
3 council requires.

4 (b) Workforce West Virginia shall facilitate the
5 coordination of council activities and local workforce
6 investment activities, including holding meetings with
7 the executive directors of each local workforce
8 investment board at least monthly. Any executive
9 director of a local workforce investment board who
10 participates in a meeting held pursuant to this
11 subsection shall report to his or her board and the
12 county commission of each county represented by the
13 board regarding the meeting.

**§5B-2B-9. Coordination between agencies providing
workforce investment programs, local
workforce investment boards and the
Executive Director of Workforce West
Virginia.**

1 (a) To provide ongoing attention to addressing issues
2 that will build and continually improve the overall
3 workforce investment system, the Workforce Investment
4 Interagency Collaborative Team is hereby created. The
5 team shall be the single state interagency source for

6 addressing issues or concerns related to building and
7 maintaining the most effective and efficient
8 implementation of the federal Workforce Investment
9 Act and the overall workforce development system in
10 West Virginia. The team shall focus on how best to
11 collaborate between and among the state agencies
12 directly involved in workforce investment activities and
13 shall develop a strategic plan to that end. The team
14 shall serve as a forum for the council to seek
15 information or recommendations in furtherance of its
16 responsibilities under this article. Workforce West
17 Virginia is the entity which shall convene the team at
18 least monthly and shall provide administrative and
19 other services to the team as the team requires.

20 (b) The team shall consist of members from each
21 agency subject to the reporting provisions of section five
22 of this article. Each agency shall appoint two
23 representatives to the team consisting of the chief
24 official of the department or division and the official
25 within that department or division who is directly
26 responsible for overseeing the workforce investment
27 program or activities at the state level. A designee may
28 be selected to represent a member appointed to the
29 team: *Provided*, That the designee has policy-making
30 decision authority regarding workforce investment
31 activities including program and fiscal issues. The team
32 members have authority to make decisions on behalf of
33 the agency at the level required for the team to address
34 issues and advance system improvements.

35 (c) The team shall coordinate the development of a
36 self-sufficiency standard study for the State of West
37 Virginia. The self-sufficiency standard is to measure
38 how much income is needed for a household of a given

39 composition in a given place to adequately meet its
40 basic needs without public or private assistance.
41 Beginning on the first day of November, two thousand
42 four, and every two years thereafter, this study is to be
43 reported to the Speaker of the House of Delegates, the
44 President of the Senate, the Workforce Investment
45 Council and the Legislative Oversight Commission on
46 Workforce Investment for Economic Development.

47 (d) Beginning the first day of January, two thousand
48 three, in order to lawfully continue any workforce
49 investment activities, any agency subject to the
50 reporting provisions of section five of this article shall
51 enter into a memorandum of understanding with the
52 Executive Director of Workforce West Virginia and any
53 local workforce investment board representing an area
54 of this state in which the agency is engaged in
55 workforce investment activities. To the extent
56 permitted by federal law, the agreements are to
57 maximize coordination of workforce investment
58 activities and eliminate duplication of services on both
59 state and local levels.

60 (e) No memorandum of understanding may be
61 effective for more than one year without annual
62 reaffirmation by the parties.

63 (f) Any state agency entering a memorandum of
64 understanding shall deliver a copy thereof to both the
65 West Virginia Workforce Investment Council and the
66 legislative oversight commission.

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

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**§5F-2-1. Transfer and incorporation of agencies and boards funds.**

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

6 (1) Building Commission provided in article six,
7 chapter five of this code;

8 (2) Public Employees Insurance Agency and Public
9 Employees Insurance Agency Advisory Board provided
10 in article sixteen, chapter five of this code;

11 (3) Governor's Mansion Advisory Committee provided
12 for in article five, chapter five-a of this code;

13 (4) Commission on Uniform State Laws provided in
14 article one-a, chapter twenty-nine of this code;

15 (5) West Virginia Public Employees Grievance Board
16 provided for in article three, chapter six-c of this code;

17 (6) Board of Risk and Insurance Management
18 provided for in article twelve, chapter twenty-nine of
19 this code;

20 (7) Boundary Commission provided in article twenty-
21 three, chapter twenty-nine of this code;

22 (8) Public Defender Services provided in article
23 twenty-one, chapter twenty-nine of this code;

24 (9) Division of Personnel provided in article six,
25 chapter twenty-nine of this code;

26 (10) The West Virginia Ethics Commission provided in
27 article two, chapter six-b of this code;

28 (11) Consolidated Public Retirement Board provided
29 in article ten-d, chapter five of this code; and

30 (12) Real Estate Division provided in article ten,
31 chapter five-a of this code.

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

37 (1) Division of Labor provided in article one, chapter
38 twenty-one of this code, which includes:

39 (A) Occupational Safety and Health Review
40 Commission provided in article three-a, chapter twenty-
41 one of this code; and

42 (B) Board of Manufactured Housing Construction and
43 Safety provided in article nine, chapter twenty-one of
44 this code;

45 (2) Office of Miners' Health, Safety and Training
46 provided in article one, chapter twenty-two-a of this
47 code. The following boards are transferred to the Office
48 of Miners' Health, Safety and Training for purposes of
49 administrative support and liaison with the office of the
50 Governor:

51 (A) Board of Coal Mine Health and Safety and Coal
52 Mine Safety and Technical Review Committee provided
53 in article six, chapter twenty-two-a of this code;

54 (B) Board of Miner Training, Education and
55 Certification provided in article seven, chapter twenty-
56 two-a of this code; and

57 (C) Mine Inspectors' Examining Board provided in
58 article nine, chapter twenty-two-a of this code;

59 (3) The West Virginia Development Office, which
60 includes the Division of Tourism and the Tourism
61 Commission provided in article two, chapter five-b of
62 this code;

63 (4) Division of Natural Resources and Natural
64 Resources Commission provided in article one, chapter
65 twenty of this code;

66 (5) Division of Forestry provided in article one-a,
67 chapter nineteen of this code;

68 (6) Geological and Economic Survey provided in
69 article two, chapter twenty-nine of this code; and

70 (7) Workforce West Virginia provided in chapter
71 twenty-one-a of this code, which includes:

72 (A) Division of Unemployment Compensation;

73 (B) Division of Employment Service;

74 (C) Division of Workforce Development; and

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

77 (8) Division of Energy provided in article two-f,
78 chapter five-b of this code.

79 (c) The Economic Development Authority provided in
80 article fifteen, chapter thirty-one of this code is
81 continued as an independent agency within the
82 executive branch.

83 (d) The Water Development Authority and Board
84 provided in article one, chapter twenty-two-c of this
85 code is continued as an independent agency within the
86 executive branch.

87 (e) The following agencies and boards, including all of
88 the allied, advisory and affiliated entities, are
89 transferred to the Department of Environmental
90 Protection for purposes of administrative support and
91 liaison with the office of the Governor:

92 (1) Air Quality Board provided in article two, chapter
93 twenty-two-b of this code;

94 (2) Solid Waste Management Board provided in article
95 three, chapter twenty-two-c of this code;

96 (3) Environmental Quality Board, or its successor
97 board, provided in article three, chapter twenty-two-b
98 of this code;

99 (4) Surface Mine Board provided in article four,
100 chapter twenty-two-b of this code;

101 (5) Oil and Gas Inspectors' Examining Board provided
102 in article seven, chapter twenty-two-c of this code;

103 (6) Shallow Gas Well Review Board provided in article
104 eight, chapter twenty-two-c of this code; and

105 (7) Oil and Gas Conservation Commission provided in
106 article nine, chapter twenty-two-c of this code.

107 (f) The following agencies and boards, including all of
108 the allied, advisory, affiliated or related entities and
109 funds associated with any agency or board, are
110 incorporated in and administered as a part of the
111 Department of Education and the Arts:

112 (1) Library Commission provided in article one,
113 chapter ten of this code;

114 (2) Educational Broadcasting Authority provided in
115 article five, chapter ten of this code;

116 (3) Division of Culture and History provided in article
117 one, chapter twenty-nine of this code;

118 (4) Division of Rehabilitation Services provided in
119 section two, article ten-a, chapter eighteen of this code.

120 (g) The following agencies and boards, including all of
121 the allied, advisory, affiliated or related entities and
122 funds associated with any agency or board, are
123 incorporated in and administered as a part of the
124 Department of Health and Human Resources:

125 (1) Human Rights Commission provided in article
126 eleven, chapter five of this code;

127 (2) Division of Human Services provided in article
128 two, chapter nine of this code;

129 (3) Bureau for Public Health provided in article one,
130 chapter sixteen of this code;

131 (4) Office of Emergency Medical Services and
132 Advisory Council provided in article four-c, chapter
133 sixteen of this code;

134 (5) Health Care Authority provided in article twenty-
135 nine-b, chapter sixteen of this code;

136 (6) Commission on Mental Retardation provided in
137 article fifteen, chapter twenty-nine of this code;

138 (7) Women's Commission provided in article twenty,
139 chapter twenty-nine of this code; and

140 (8) The Child Support Enforcement Division provided
141 in chapter forty-eight of this code.

142 (h) The following agencies and boards, including all of
143 the allied, advisory, affiliated or related entities and
144 funds associated with any agency or board, are
145 incorporated in and administered as a part of the
146 Department of Military Affairs and Public Safety:

147 (1) Adjutant General's Department provided in article
148 one-a, chapter fifteen of this code;

149 (2) Armory Board provided in article six, chapter
150 fifteen of this code;

151 (3) Military Awards Board provided in article one-g,

152 chapter fifteen of this code;

153 (4) West Virginia State Police provided in article two,
154 chapter fifteen of this code;

155 (5) Division of Homeland Security and Emergency
156 Management and Disaster Recovery Board provided in
157 article five, chapter fifteen of this code and Emergency
158 Response Commission provided in article five-a of said
159 chapter;

160 (6) Sheriffs' Bureau provided in article eight, chapter
161 fifteen of this code;

162 (7) Division of Corrections provided in chapter
163 twenty-five of this code;

164 (8) Fire Commission provided in article three, chapter
165 twenty-nine of this code;

166 (9) Regional Jail and Correctional Facility Authority
167 provided in article twenty, chapter thirty-one of this
168 code;

169 (10) Board of Probation and Parole provided in article
170 twelve, chapter sixty-two of this code; and

171 (11) Division of Veterans' Affairs and Veterans'
172 Council provided in article one, chapter nine-a of this
173 code.

174 (i) The following agencies and boards, including all of
175 the allied, advisory, affiliated or related entities and
176 funds associated with any agency or board, are
177 incorporated in and administered as a part of the

178 Department of Revenue:

179 (1) Tax Division provided in article one, chapter
180 eleven of this code;

181 (2) Racing Commission provided in article twenty-
182 three, chapter nineteen of this code;

183 (3) Lottery Commission and position of Lottery
184 Director provided in article twenty-two, chapter
185 twenty-nine of this code;

186 (4) Agency of Insurance Commissioner provided in
187 article two, chapter thirty-three of this code;

188 (5) Office of Alcohol Beverage Control Commissioner
189 provided in article sixteen, chapter eleven of this code
190 and article two, chapter sixty of this code;

191 (6) Board of Banking and Financial Institutions
192 provided in article three, chapter thirty-one-a of this
193 code;

194 (7) Lending and Credit Rate Board provided in
195 chapter forty-seven-a of this code;

196 (8) Division of Banking provided in article two,
197 chapter thirty-one-a of this code;

198 (9) The State Budget Office provided in article two of
199 this chapter;

200 (10) The Municipal Bond Commission provided in
201 article three, chapter thirteen of this code;

- 202 (11) The Office of Tax Appeals provided in article ten-
203 a, chapter eleven of this code; and
- 204 (12) The State Athletic Commission provided in article
205 five-a, chapter twenty-nine of this code.
- 206 (j) The following agencies and boards, including all of
207 the allied, advisory, affiliated or related entities and
208 funds associated with any agency or board, are
209 incorporated in and administered as a part of the
210 Department of Transportation:
- 211 (1) Division of Highways provided in article two-a,
212 chapter seventeen of this code;
- 213 (2) Parkways, Economic Development and Tourism
214 Authority provided in article sixteen-a, chapter
215 seventeen of this code;
- 216 (3) Division of Motor Vehicles provided in article two,
217 chapter seventeen-a of this code;
- 218 (4) Driver's Licensing Advisory Board provided in
219 article two, chapter seventeen-b of this code;
- 220 (5) Aeronautics Commission provided in article two-a,
221 chapter twenty-nine of this code;
- 222 (6) State Rail Authority provided in article eighteen,
223 chapter twenty-nine of this code; and
- 224 (7) Port Authority provided in article sixteen-b,
225 chapter seventeen of this code.
- 226 (k) Except for powers, authority and duties that have

227 been delegated to the secretaries of the departments by
228 the provisions of section two of this article, the position
229 of administrator and the powers, authority and duties
230 of each administrator and agency are not affected by
231 the enactment of this chapter.

232 (l) Except for powers, authority and duties that have
233 been delegated to the secretaries of the departments by
234 the provisions of section two of this article, the
235 existence, powers, authority and duties of boards and
236 the membership, terms and qualifications of members
237 of the boards are not affected by the enactment of this
238 chapter. All boards that are appellate bodies or are
239 independent decisionmakers shall not have their
240 appellate or independent decision-making status
241 affected by the enactment of this chapter.

242 (m) Any department previously transferred to and
243 incorporated in a department by prior enactment of this
244 section means a division of the appropriate department.
245 Wherever reference is made to any department
246 transferred to and incorporated in a department created
247 in section two, article one of this chapter, the reference
248 means a division of the appropriate department and any
249 reference to a division of a department so transferred
250 and incorporated means a section of the appropriate
251 division of the department.

252 (n) When an agency, board or commission is
253 transferred under a bureau or agency other than a
254 department headed by a secretary pursuant to this
255 section, that transfer is solely for purposes of
256 administrative support and liaison with the office of the
257 Governor, a department secretary or a bureau. Nothing
258 in this section extends the powers of department

259 secretaries under section two of this article to any
260 person other than a department secretary and nothing
261 limits or abridges the statutory powers and duties of
262 statutory commissioners or officers pursuant to this
263 code.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 1. UNEMPLOYMENT COMPENSATION.

§21A-1-4. Workforce West Virginia created; divisions within Workforce West Virginia created; certain terms defined.

1 (a) There is continued an agency designated
2 Workforce West Virginia, composed of:

3 (1) Division of Unemployment Compensation;

4 (2) Division of Employment Service;

5 (3) Division of Workforce Development;

6 (4) Division of Research, Information and Analysis;
7 and

8 (5) Any other divisions or units that the executive
9 director determines are necessary.

10 (b) Wherever within this chapter the term
11 "department", "bureau" or "fund" is used, it shall be
12 taken to mean Workforce West Virginia unless
13 otherwise indicated. Any reference in this code to the
14 Bureau of Employment Programs means Workforce
15 West Virginia. Any reference in this code to the
16 Commissioner of the Bureau of Employment Programs

17 or Employment Security means the Executive Director
18 of Workforce West Virginia.

19 (c) Workforce West Virginia shall be administered
20 pursuant to subsection (b), section one, article two,
21 chapter five-f of this code.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this
the *4th* Day of *April*, 2007.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 02 2007

Time 3:30 pm