

1 **ENROLLED**

2 **Senate Bill No. 194**

3 (BY SENATORS STOLLINGS, JENKINS, KIRKENDOLL, LAIRD, MILLER, PALUMBO, PLYMALE,  
4 PREZIOSO, TUCKER, YOST, BOLEY AND M. HALL)

5 \_\_\_\_\_  
6 [Passed April 13, 2013; in effect from passage.]  
7 \_\_\_\_\_

8  
9 AN ACT to repeal §9-2-9b of the Code of West Virginia, 1931, as  
10 amended; and to amend and reenact §9-2-6 of said code,  
11 relating to contract procedures for Department of Health and  
12 Human Resources; providing that previous contracts awarded  
13 would remain in full force and effect; and eliminating  
14 Department of Health and Human Resources' exemption for  
15 contracts for the Medicaid program from purchasing  
16 requirements.

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

18 That §9-2-9b of the Code of West Virginia, as amended, be  
19 repealed; and that §9-2-6 of said code be amended and reenacted,  
20 all to read as follows:

21 **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWER, DUTIES AND**  
22 **RESPONSIBILITIES GENERALLY.**

23 **§9-2-6. Powers of secretary.**

24 Within limits of state appropriations and federal grants and

1 subject to provisions of state and federal laws and regulations,  
2 the secretary, in addition to all other powers, duties and  
3 responsibilities granted and assigned to that office in this  
4 chapter and elsewhere by law, is authorized to:

5       (1) Promulgate, amend, revise and rescind department rules  
6 respecting the organization and government of the department and  
7 the execution and administration of those powers, duties and  
8 responsibilities granted and assigned by this chapter and elsewhere  
9 by law to the department and the secretary.

10       (2) Promulgate, amend, revise and rescind department rules and  
11 regulations respecting qualifications for receiving the different  
12 classes of welfare assistance consistent with or permitted by  
13 federal laws, rules and policies, but not inconsistent with state  
14 law: *Provided*, That rules and policies respecting qualifications  
15 shall permit the expenditure of state funds to pay for care  
16 rendered in any birthing center licensed under the provisions of  
17 article two-e, chapter sixteen of this code by a licensed nurse  
18 midwife or midwife as this occupation is defined in section one,  
19 article fifteen, chapter thirty of this code and which care is  
20 within the scope of duties for such licensed nurse midwife or  
21 midwife as permitted by the provisions of section seven of said  
22 article.

23       (3) Obtain by purchase or lease grounds, buildings, office or  
24 other space, equipment, facilities and services as may be necessary

1 for the execution and administration of those powers, duties and  
2 responsibilities granted and assigned by this chapter and elsewhere  
3 by law to the department and the secretary.

4 (4) Sign and execute in the name of the state by the State  
5 Department of Health and Human Resources any contract or agreement  
6 with the federal government or its agencies, other states,  
7 political subdivisions of this state, corporations, associations,  
8 partnerships or individuals: *Provided*, That the provisions of  
9 article three, chapter five-a are followed.

10 (5) Sign and execute a contract to implement professional  
11 health care, managed care, actuarial and health care-related  
12 monitoring, quality review/utilization, claims processing and  
13 independent professional consultant contracts for the Medicaid  
14 program: *Provided*, That the provisions of article three, chapter  
15 five-a are followed: *Provided, however*, That a contract awarded  
16 under the agency purchasing process from April 1, 2009, to January  
17 2, 2013, remains in full force and effect and the secretary retains  
18 sole authority to review, approve and issue changes to contracts  
19 issued under the former purchasing process, and is responsible for  
20 challenges, disputes, protests and legal actions related to such  
21 contracts.

22 (6) Establish such special funds as may be required by the  
23 federal Social Security Act, as amended, or by any other Act or  
24 Acts of Congress, in order for this state to take full advantage of

1 the benefits and provisions thereof relating to the federal-state  
2 assistance and federal assistance programs administered by the  
3 department and to make payments into and disbursements out of any  
4 such special fund or funds in accordance with the requirements of  
5 the federal Social Security Act, as amended, or any other Act or  
6 Acts of Congress, and in accordance with applicable state law and  
7 the objects and purposes of this chapter. In addition, the State  
8 Department of Health and Human Resources, through the secretary, is  
9 hereby authorized to accept any and all gifts or grants, whether in  
10 money, land, services or materials, which gift or gifts, if in the  
11 form of moneys, shall be placed in a separate fund and expended  
12 solely for the purpose of public assistance programs. No part of  
13 this special fund shall revert to the General Revenue Funds of this  
14 state. No expenses incurred pursuant to this special fund shall be  
15 a charge against the General Funds of this state.

16 (7) Establish within the department an Office of Inspector  
17 General for the purpose of conducting and supervising  
18 investigations and for the purpose of providing quality control for  
19 the programs of the department. The Office of Inspector General  
20 shall be headed by the Inspector General who shall report directly  
21 to the secretary. Neither the secretary nor any employee of the  
22 department may prevent, inhibit or prohibit the Inspector General  
23 or his or her employees from initiating, carrying out or completing  
24 any investigation, quality control review or other activity

1 oversight of public integrity by the Office of the Inspector  
2 General. The secretary shall place within the Office of Inspector  
3 General any function he or she deems necessary. Qualification,  
4 compensation and personnel practice relating to the employees of  
5 the Office of the Inspector General, including that of the position  
6 of Inspector General, shall be governed by the classified service  
7 provisions of article six, chapter twenty-nine of this code and  
8 rules promulgated thereunder. The Inspector General shall  
9 supervise all personnel of the Office of Inspector General.

10 (8) Provide at department expense a program of continuing  
11 professional, technical and specialized instruction for the  
12 personnel of the department.

13 (9) Pay from available funds all or part of the reasonable  
14 expenses incurred by a person newly employed by the department in  
15 moving his household furniture, effects and immediate family from  
16 his or her place of residence in this state to his or her place of  
17 employment in this state; and to pay from available funds all or  
18 part of the reasonable expenses incurred by a department employee  
19 in moving his or her household furniture, effects and immediate  
20 family as a result of a reassignment of the employee which is  
21 considered desirable, advantageous to and in the best interests of  
22 the state, but no part of the moving expenses of any one such  
23 employee shall be paid more frequently than once in twelve months  
24 or for any movement other than from one place of employment in this

1 state to another place of employment in this state.

2 (10) Establish a program to provide reimbursement to employees  
3 of the department whose items of personal property, as defined by  
4 the department by policy, are damaged during the course of  
5 employment or other work-related activity as a result of aggressive  
6 behavior by a client or patient receiving services from the  
7 department: *Provided*, That such reimbursement is limited to a  
8 maximum amount of \$250.00 per claim.

9 (11) Establish and maintain such institutions as are necessary  
10 for the temporary care, maintenance and training of children and  
11 other persons.

12 (12) Prepare and submit state plans which will meet the  
13 requirements of federal laws, rules governing federal-state  
14 assistance and federal assistance and which are not inconsistent  
15 with state law.

16 (13) Organize within the department a Board of Review,  
17 consisting of a Chairman appointed by the secretary and as many  
18 assistants or employees of the department as may be determined by  
19 the secretary and as may be required by federal laws and rules  
20 respecting state assistance, federal-state assistance and federal  
21 assistance, such Board of Review to have such powers of a review  
22 nature and such additional powers as may be granted to it by the  
23 secretary and as may be required by federal laws and rules  
24 respecting federal-state assistance and federal assistance.

1 (14) Provide by rules review and appeal procedures within the  
2 Department of Health and Human Resources as may be required by  
3 applicable federal laws and rules respecting state assistance,  
4 federal-state assistance and federal assistance and as will provide  
5 applicants for, and recipients of all, classes of welfare  
6 assistance an opportunity to be heard by the Board of Review, a  
7 member thereof or individuals designated by the board, upon claims  
8 involving denial, reduction, closure, delay or other action or  
9 inaction pertaining to public assistance.

10 (15) Provide by rules, consistent with requirements of  
11 applicable federal laws and rules, application forms and  
12 application procedures for the various classes of public  
13 assistance.

14 (16) Provide locations for making applications for the various  
15 classes of public assistance.

16 (17) Provide a citizen or group of citizens an opportunity to  
17 file objections and to be heard upon objections to the grant of any  
18 class of public assistance.

19 (18) Delegate to the personnel of the department all powers  
20 and duties vested in the secretary, except the power and authority  
21 to sign contracts and agreements.

22 (19) Make such reports in such form and containing such  
23 information as may be required by applicable federal laws and rules  
24 respecting federal-state assistance and federal assistance.

1           (20) Invoke any legal, equitable or special remedies for the  
2 enforcement of the provisions of this chapter.