

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 183

BY SENATORS BLAIR, SYPOLT, GAUNCH, RUCKER AND

TRUMP

[Introduced February 8 2017; referred
to the Committee on Agriculture and Rural
Development; and then to the Committee on
Government Organization]

1 A BILL to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend
3 said code by adding thereto a new section, designated §19-1-3b; to amend and reenact
4 §19-1A-5 of said code; to amend and reenact §19-1B-3 of said code; and to amend and
5 reenact §19-12A-5 of said code, all relating to transferring the Division of Forestry from
6 the Department of Commerce to the Department of Agriculture; eliminating references in
7 code showing the Division of Forestry as part of the Department of Commerce; transferring
8 all authorities, powers and duties of the Division of Forestry to the Department of
9 Agriculture; ensuring all legislative rules currently in effect remain in effect as if they were
10 proposed by the Division of Forestry under the Department of Agriculture; making the
11 Director of the Division of Forestry a position hired by the Commissioner of Agriculture
12 rather than a position appointed by the Governor; and making the Director of the Division
13 of Forestry a will and pleasure employee of the Commissioner of Agriculture rather than
14 the Governor.

Be it enacted by the Legislature of West Virginia:

1 That §5B-1-2 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; that §5F-2-1 of said code be amended and reenacted; that §6-7-2a of said code be
3 amended and reenacted; that said code be amended by adding thereto a new section, designated
4 §19-1-3b; that §19-1A-5 of said code be amended and reenacted; that §19-1B-3 of said code be
5 amended and reenacted; and that §19-12A-5 of said code be amended and reenacted, all to read
6 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 following agencies, boards, commissions,
2 divisions and offices, including all of the allied, advisory, affiliated or related entities, which are
3 incorporated in and administered as part of the Department of Commerce:

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

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

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

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

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

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

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

19 (3) The West Virginia Development Office provided in article two, chapter five-b of this
20 code;

21 (4) Division of Natural Resources and Natural Resources Commission provided in article
22 one, chapter twenty of this code;

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

24 ~~(6)~~ (5) Geological and Economic Survey provided in article two, chapter twenty-nine of this
25 code;

26 ~~(7)~~ (6) Workforce West Virginia provided in chapter twenty-one-a of this code, which

27 includes:

28 (A) Division of Unemployment Compensation;

29 (B) Division of Employment Service;

30 (C) Division of Workforce Development; and

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

32 ~~(8)~~ (7) Division of Energy provided in article two-f, chapter five-b of this code; and

33 ~~(9)~~ (8) Division of Tourism and the Tourism Commission provided in article two, chapter
34 five-b of this code.

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 the allied, advisory, affiliated or
2 related entities and funds associated with any agency or board, are incorporated in and
3 administered as a part of the Department of Administration:

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

5 (2) Public Employees Insurance Agency provided in article sixteen, chapter five of this
6 code;

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

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

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

13 (6) Board of Risk and Insurance Management provided in article twelve, chapter twenty-

14 nine of this code;

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

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

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

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

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

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

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

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

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

32 (B) Board of Manufactured Housing Construction and Safety provided in article nine,
33 chapter twenty-one of this code.

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

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

39 (B) Board of Miner Training, Education and Certification provided in article seven, chapter

twenty-two-a of this code; and

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

(3) The West Virginia Development Office provided in article two, chapter five-b of this code;

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

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

~~(6)~~ (5) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and

~~(7)~~ (6) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis.

~~(8)~~ (7) Division of Energy provided in article two-f, chapter five-b of this code.

~~(9)~~ (8) Division of Tourism Commission provided in article two-h, chapter five-b of this code.

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

(e) 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 article two, chapter twenty-two-b of this code;

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

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

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

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

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

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

(f) 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 Education and the Arts:

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

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

(3) Division of Rehabilitation Services provided in article ten-a, chapter eighteen of this code.

(g) The Educational Broadcasting Authority provided in article five, chapter ten of this code is part of the Department of Education and the Arts for the purposes of administrative support and liaison with the office of the Governor.

(h) 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 Health and Human Resources:

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

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

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

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

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

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

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

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

(i) 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 Military Affairs and Public Safety:

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

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

(3) Military Awards Board provided in article one-g, chapter fifteen of this code;

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

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

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

(7) Division of Justice and Community Services provided in article nine-a, chapter fifteen of this code;

(8) Division of Corrections provided in chapter twenty-five of this code;

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

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

(11) Board of Probation and Parole provided in article twelve, chapter sixty-two of this code.

(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 chapter eleven of this code;

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

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

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

(5) West Virginia Alcohol Beverage Control Commissioner provided in article sixteen, chapter eleven of this code and article two, chapter sixty of this code;

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

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

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

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

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

(11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and

(12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this code.

(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 article two-a, chapter seventeen of this code;

(2) Parkways, Economic Development and Tourism Authority provided in article sixteen-a, chapter seventeen of this code;

(3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;

(4) Driver's Licensing Advisory Board provided in article two, chapter seventeen-b of this code;

(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;

(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and

(7) Public Port Authority provided in article sixteen-b, chapter seventeen of this code.

(l) Effective July 1, 2011, the Veterans' Council provided in article one, chapter nine-a 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.

(m) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the position of administrator and the powers, authority and duties of each administrator and agency are not affected by the enactment of this chapter.

(n) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, 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 shall not have their appellate or independent decision-making status affected by the enactment of this chapter.

(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 section two,

170 article one of this chapter, the reference means a division of the appropriate department and any
171 reference to a division of a department so transferred and incorporated means a section of the
172 appropriate division of the department.

173 (p) When an agency, board or commission is transferred under a bureau or agency other
174 than a department headed by a secretary pursuant to this section, that transfer is solely for
175 purposes of administrative support and liaison with the Office of the Governor, a department
176 secretary or a bureau. Nothing in this section extends the powers of department secretaries under
177 section two of this article to any person other than a department secretary and nothing limits or
178 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
179 code.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.

1 (a) Each of the following appointive state officers named in this subsection shall be
2 appointed by the Governor, by and with the advice and consent of the Senate. Each of the
3 appointive state officers serves at the will and pleasure of the Governor for the term for which the
4 Governor was elected and until the respective state officers' successors have been appointed
5 and qualified. Each of the appointive state officers are subject to the existing qualifications for
6 holding each respective office and each has and is hereby granted all of the powers and authority
7 and shall perform all of the functions and services heretofore vested in and performed by virtue
8 of existing law respecting each office.

9 The annual salary of each named appointive state officer is as follows:

10 Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections,
11 \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police,

\$85,000; Commissioner, Division of Banking, \$75,000; Commissioner, Division of Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000; Commissioner, Division of Motor Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000; members, Health Care Authority, \$70,000; Director, Human Rights Commission, \$55,000; Commissioner, Division of Labor, \$70,000; prior to July 1, 2011, Director, Division of Veterans Affairs, \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of Parole, \$50,000; members, Employment Security Review Board, \$17,000; and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary as follows: Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an annual salary not to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000; Administration, \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That any officer specified in this subsection whose salary is increased by more than \$5,000 as a result of the amendment and reenactment of this section during the 2011 regular session of the Legislature shall be paid the salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided in this subsection.

(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and shall be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, \$80,000; Director, Division of Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director, Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director, Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute, \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of

38 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital
39 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service
40 Commission, \$85,000; members, Public Service Commission, \$85,000; ~~Director, Division of~~
41 ~~Forestry, \$75,000~~ Director, Division of Juvenile Services, \$80,000; and Executive Director,
42 Regional Jail and Correctional Facility Authority, \$80,000.

43 (c) Each of the following appointive state officers named in this subsection shall be
44 appointed by the Governor, by and with the advice and consent of the Senate. Each of the
45 appointive state officers serves at the will and pleasure of the Governor for the term for which the
46 Governor was elected and until the respective state officers' successors have been appointed
47 and qualified. Each of the appointive state officers are subject to the existing qualifications for
48 holding each respective office and each has and is hereby granted all of the powers and authority
49 and shall perform all of the functions and services heretofore vested in and performed by virtue
50 of existing law respecting each office.

51 The annual salary of each named appointive state officer shall be as follows:

52 Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director,
53 Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency
54 Management, \$65,000; and Adjutant General, \$125,000.

55 (d) No increase in the salary of any appointive state officer pursuant to this section may
56 be paid until and unless the appointive state officer has first filed with the State Auditor and the
57 Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General,
58 certifying that his or her spending unit is in compliance with any general law providing for a salary
59 increase for his or her employees. The Attorney General shall prepare and distribute the form to
60 the affected spending units.

CHAPTER 19. AGRICULTURE.

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-3b. Division of Forestry.

1 The Division of Forestry, previously a division of the Department of Commerce, is
2 transferred to the Department of Agriculture, effective July 1, 2017. All real and personal property
3 of the division held by the Department of Commerce, including the rights and administrative
4 authority over the Division of Forestry Fund (3081) shall be transferred to the Department of
5 Agriculture. All employees of the Division of Forestry shall be transferred to the Department of
6 Agriculture, at their existing hourly rate or salary and with all accrued benefits. All employees of
7 the division shall become will and pleasure employees of the Commissioner of Agriculture in
8 accordance with section four, article six, chapter twenty-nine of the Code of West Virginia, and
9 are exempt from coverage by classified service. All legislative rules proposed by the Division of
10 Forestry under the Department of Commerce that were previously authorized and are in effect
11 remain in effect as if they were proposed by the Division of Forestry under the Department of
12 Agriculture. The Division of Forestry's authorities, powers and duties remain unchanged by this
13 section.

ARTICLE 1A. DIVISION OF FORESTRY.**§19-1A-5. Director of Division of Forestry; appointment; qualifications.**

1 ~~The Director of the Division of Forestry shall be appointed by the Governor, by and with~~
2 ~~the advice and consent of the Senate, hired by the Commissioner of Agriculture~~ and shall serve
3 at the will and pleasure of the ~~Governor~~ commissioner. The director shall be a graduate of a
4 school of forestry accredited by the Society of American Foresters and have a minimum of ten
5 years' experience in forest management. The director shall be paid an annual salary as provided
6 in section two-a, article seven, chapter six of this code: *Provided, That the director's salary shall*
7 *be paid solely from budget appropriations to the division.*

**ARTICLE 1B. SEDIMENT CONTROL DURING COMMERCIAL TIMBER HARVESTING
OPERATIONS.**

§19-1B-3. Definitions.

1 (a) "Best management practices" means sediment control measures, structural or
2 nonstructural, used singly or in combination, to reduce soil runoff from land disturbances
3 associated with commercial timber harvesting.

4 (b) "Chief" means the Director of the Division of Water and Waste Management of the
5 Department of Environmental Protection, or his or her designee.

6 (c) "Director" means the Director of the Division of Forestry of the Department of
7 ~~Commerce~~ Agriculture or his or her designee.

8 (d) "Operator" means any person who conducts timbering operations.

9 (e) "Timbering operation," or the plural, means activities directly related to the severing or
10 removal of standing trees from the forest as a raw material for commercial processes or purposes.
11 For the purpose of this article, timbering operations do not include the severing of evergreens
12 grown for and severed for the traditional Christmas holiday season; the severing of trees
13 incidental to ground-disturbing construction activities, including well sites, access roads and
14 gathering lines for oil and natural gas operations; the severing of trees for maintaining existing, or
15 during construction of, rights-of-way for public highways or public utilities or any company subject
16 to the jurisdiction of the Federal Energy Regulatory Commission unless the trees so severed are
17 being sold or provided as raw material for commercial wood product purposes; or the severing of
18 trees by an individual on the individual's own property for his or her individual use provided that
19 the individual does not have the severing done by a person whose business is the severing or
20 removal of trees.

21 (f) "Sediment" means solid particulate matter, usually soil or minute rock fragments,
22 moved by wind, rainfall or snowmelt into the streams of the state.

ARTICLE 12A. LAND DIVISION.**§19-12A-5. Powers, duties and responsibilities of commission.**

1 (a) On or before July 1, 1990, the commission shall meet and confer with respect to the

2 development of a management plan to determine the optimum use or disposition of all institutional
3 farms, at which time the farm management director shall provide the commission with a complete
4 inventory of all institutional farms, and such information relating to easements, mineral rights,
5 appurtenances, farm equipment, agricultural products, livestock, inventories and farm facilities as
6 may be necessary to develop such management plan. The commission shall complete and
7 provide to the Governor a management plan, which plan shall set forth the objectives of the
8 commission with respect to institutional farms, the criteria by which the commission shall
9 determine the optimum use or disposition of such property, and determinations as to whether
10 each institutional farm shall be used in production, sold, or leased, in whole or in part. Prior to the
11 adoption of any plan, the commission shall consult with the secretaries of the various departments
12 of state government and shall request from such secretaries suggestions for land use and
13 resource development on farm commission lands. On or before December 1, 1990, such
14 management plan shall be presented to the Legislature, by providing a copy to the President of
15 the Senate and the Speaker of the House of Delegates. The commission may confer with any
16 other agency or individual in implementing and adjusting its management plan. The management
17 plan established pursuant to this subsection may be amended, from time to time, as may be
18 necessary.

19 (b) The commission shall manage its institutional farms, equipment and other property in
20 order to most efficiently produce food products for state institutions and shall implement the intent
21 of the Legislature as set forth by this article. From the total amount of food, milk and other
22 commodities produced on institutional farms, the commission shall sell, at prevailing wholesale
23 prices, and each of the institutions under the control of the bureau of public health and the Division
24 of Corrections shall purchase, a proportionate amount of these products based on the dietary
25 needs of each institution.

26 (c) If requested by the Commissioner of Corrections, the commission may authorize the
27 Division of Corrections to operate a farm or other enterprise using inmates as labor on such lands.

The Commissioner of Corrections is responsible for the selection, direction and supervision of the inmates and shall assign the work to be performed by inmates.

(d) The commission is hereby authorized and empowered to:

(1) Lease to public or private parties, for purposes including agricultural production or experimentation, public necessity, or other purposes permitted by the management plan, any land, easements, equipment, or other property, except that property may not be leased for any use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous materials as identified by the Commissioner of Agriculture be used or stored upon such property unless all applicable state and federal permits necessary are obtained. Any lease for an annual consideration of \$1,000 or more shall be by sealed bid auction and the commission shall give notice of such auction by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication is the county in which the property to be leased is located;

(2) Transfer to the public land corporation land designated in its management plan as land to be disposed of, which land shall be sold, exchanged or otherwise transferred pursuant to sections four and five, article one-a, chapter twenty of this code: *Provided*, That the net proceeds of the sale of farm commission lands shall be deposited in the General Revenue Fund of the state: *Provided, however*, That no sale may be concluded until on or after March 15, 1991, except with respect to: (A) Properties located at institutions closed on or before the effective date of this section, March 10, 1990; or (B) properties conveyed to or from the Farm Management Commission to or from any other entity in order to facilitate the construction of a regional jail or correctional facility by the Regional Jail and Correctional Facilities Authority or the State Building Commission, with the decision to execute any such conveyance being solely within the discretion of, and at the direction of, the Regional Jail and Correctional Facilities Authority;

(3) Develop lands to which it has title for the public use including forestation, recreation, wildlife, stock grazing, agricultural production, rehabilitation and/or other conservation activities

54 and may contract or lease for the proper development of timber, oil, gas or mineral resources,
55 including coal by underground mining or by surface mining where reclamation as required by
56 specifications of the Division of Environmental Protection will increase the beneficial use of such
57 property. Any such contract or lease shall be by sealed bid auction as provided for in subdivision
58 (1) above;

59 (4) Exercise all other powers and duties necessary to effectuate the purposes of this
60 article.

61 (e) Notwithstanding the provisions of subsection (d) herein, no timberland may be leased,
62 sold, exchanged or otherwise disposed of unless the Division of Forestry of the Department of
63 ~~Commerce, labor and environmental resources~~ Agriculture certifies that there is no commercially
64 salable timber on the timberland, an inventory is provided, an appraisal of the timber is provided,
65 and the sale, lease, exchange or other disposition is accomplished by the sealed bid auction
66 procedure provided above in subdivisions (1) or (2), as applicable.

67 (f) The commission shall promulgate, pursuant to chapter twenty-nine-a of this code, rules
68 and regulations relating to the powers and duties of the commission as enumerated in this section.

NOTE: The purpose of this bill is to transfer the Division of Forestry and its authorities, powers and duties from the Department of Commerce to the Department of Agriculture.

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