

WEST VIRGINIA LEGISLATURE
2018 FIRST EXTRAORDINARY SESSION

ENROLLED

House Bill 101

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Passed May 21, 2018; in effect June 8, 2018.]

1 AN ACT to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended, as
2 contained in Chapter 105, Acts of the Legislature, Regular Session, 2018; and to amend
3 and reenact §29-1-1 and §29-1-2 of said code, all relating to the Division of Culture and
4 History continuing as the Department of Arts, Culture and History; providing that the
5 Library Commission and the West Virginia Educational Broadcasting Authority shall be
6 organized within the Department of Arts, Culture and History for administrative support;
7 providing that any references throughout this code to the “Commissioner of Culture and
8 History” means the “Curator of Arts, Culture and History” and any references throughout
9 this code to the “Division of Culture and History” means the “Department of Arts, Culture
10 and History”; organizing the Department of Arts, Culture and History as a separate
11 independent agency within the Executive Branch; continuing the Commissioner of Culture
12 and History as the Curator of Arts, Culture and History; specifying that the curator reports
13 directly to Governor in furtherance of purposes and duties of the department; specifying
14 the role of the curator; specifying that the curator is to represent the department as a full
15 participating member in meetings of department secretaries convened by the Governor.

Be it enacted by the Legislature of West Virginia:

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) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 5 (2) Governor’s Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The following boards are transferred to the Office of Miners' Health, Safety and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

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

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

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

32 (3) The West Virginia Development Office provided in §5B-2-1 *et seq.* of this code;

33 (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-
34 1 *et seq.* of this code;

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

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

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

38 (A) Division of Unemployment Compensation;

39 (B) Division of Employment Service;

40 (C) Division of Workforce Development; and

41 (D) Division of Research, Information and Analysis.

42 (8) Office of Energy, within the Development Office, provided in §5B-2F-1 *et seq.* of this
43 code.

44 (9) West Virginia Tourism Office and Tourism Commission provided in §5B-2I-1 *et seq.* of
45 this code; and

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

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

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

52 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
53 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each
54 continued as separate independent agencies within the Department of Arts, Culture and History,
55 which shall provide administrative support for both entities.

56 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
57 continued as a separate independent agency within the Executive Branch as the Department of

58 Arts, Culture and History. All references throughout this code to the “Division of Culture and
59 History” means the “Department of Arts, Culture and History”.

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

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

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

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

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

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

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

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

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

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

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

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

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

79 (5) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this code;

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

81 (7) Bureau for Child Support Enforcement provided in chapter 48 of this code.

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

- 85 (1) Adjutant General's Department provided in §15-1A-1 *et seq.* of this code;
- 86 (2) State Armory Board provided in §15-6-1 *et seq.* of this code;
- 87 (3) Military Awards Board provided in §15-1G-1 *et seq.* of this code;
- 88 (4) West Virginia State Police provided in §15-2-1 *et seq.* of this code;
- 89 (5) Division of Homeland Security and Emergency Management and Disaster Recovery
- 90 Board provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided
- 91 in §15-5A-1 *et seq.* of this code;
- 92 (6) Sheriffs' Bureau provided in §15-8-1 *et seq.* of this code;
- 93 (7) Division of Justice and Community Services provided in §15-9A-1 *et seq.* of this code;
- 94 (8) Division of Corrections provided in chapter 25 of this code;
- 95 (9) Fire Commission provided in §29-3-1 *et seq.* of this code;
- 96 (10) Regional Jail and Correctional Facility Authority provided in §31-20-1 *et seq.* of this
- 97 code; and
- 98 (11) Board of Probation and Parole provided in §62-12-1 *et seq.* of this code.
- 99 (j) The following agencies and boards, including all of the allied, advisory, affiliated or
- 100 related entities and funds associated with any agency or board, are incorporated in and
- 101 administered as a part of the Department of Revenue:
- 102 (1) Tax Division provided in chapter 11 of this code;
- 103 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;
- 104 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;
- 105 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;
- 106 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
- 107 this code and §60-2-1 *et seq.* of this code;
- 108 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;
- 109 (7) Lending and Credit Rate Board provided in chapter 47A of this code;
- 110 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

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

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

113 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and

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

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

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

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

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

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

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

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

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

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

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

132 (n) Except for powers, authority and duties that have been delegated to the secretaries of
133 the departments by the provisions of §5F-2-2 of this code, the existence, powers, authority, and
134 duties of boards and the membership, terms and qualifications of members of the boards are not
135 affected by the enactment of this chapter. All boards that are appellate bodies or are independent

136 decision makers shall not have their appellate or independent decision-making status affected by
137 the enactment of this chapter.

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

144 (p) When an agency, board, or commission is transferred under a bureau or agency other
145 than a department headed by a secretary pursuant to this section, that transfer is solely for
146 purposes of administrative support and liaison with the Office of the Governor, a department
147 secretary or a bureau. Nothing in this section extends the powers of department secretaries under
148 §5F-2-2 of this code to any person other than a department secretary and nothing limits or
149 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
150 code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DEPARTMENT OF ARTS, CULTURE AND HISTORY.

§29-1-1. Division of Culture and History continued as the Department of Arts, Culture and History; sections and commissions; purposes; definitions; effective date.

1 (a) The Division of Culture and History and the office of Commissioner of Culture and
2 History heretofore created are hereby continued as the Department of Arts, Culture and History.
3 The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the
4 Curator of Arts, Culture and History, who shall be the chief executive officer of the department
5 and shall be paid an annual salary as provided in §6-7-2a of this code. The curator so appointed
6 shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science or a

7 related field; or (2) four years' experience in the administration of museum management, public
8 administration, arts, history or a related field.

9 (b) The department shall consist of five sections as follows:

10 (1) The arts section;

11 (2) The archives and history section;

12 (3) The museums section;

13 (4) The historic preservation section; and

14 (5) The administrative section.

15 (c) The department shall also consist of two citizens commissions as follows:

16 (1) A Commission on the Arts; and

17 (2) A Commission on Archives and History.

18 (d) The curator shall exercise control and supervision of the department and shall be
19 responsible for the projects, programs and actions of each of its sections. The purpose and duty
20 of the department is to advance, foster and promote the creative and performing arts and crafts,
21 including both indoor and outdoor exhibits and performances; to advance, foster, promote,
22 identify, register, acquire, mark and care for historical, prehistorical, archaeological and significant
23 architectural sites, structures and objects in the state; to encourage the promotion, preservation
24 and development of significant sites, structures and objects through the use of economic
25 development activities such as loans, subsidies, grants and other incentives; to coordinate all
26 cultural, historical and artistic activities in state government and at state-owned facilities; to
27 acquire, preserve and classify books, documents, records and memorabilia of historical interest
28 or importance; and, in general, to do all things necessary or convenient to preserve and advance
29 the arts, humanities, culture and history of the state. In the furtherance of these purposes and
30 duties, the curator shall report directly to the Governor as a curator for both the intrinsic and
31 extrinsic value for individuals, communities and the economy of the arts, humanities, culture and
32 history in West Virginia. As such, the curator shall represent the Department of Arts, Culture and

33 History as a full participating member in meetings of the secretaries of the departments created
34 in §5F-1-2 of this code that are convened at the call of the Governor.

35 (e) The department shall have jurisdiction and control and may set and collect fees for the
36 use of all space in the building presently known as the West Virginia Science and Culture Center,
37 including the deck and courtyards forming an integral part thereof; the building presently known
38 as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances
39 thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14 of this code; and
40 any other sites as may be transferred to or acquired by the department. Notwithstanding any
41 provision of this code to the contrary, including the provisions of article one, chapter five-b of this
42 code, beginning on and after July 1, 2018, the department shall have responsibility for, and control
43 of, all visitor touring and visitor tour guide activities within the state Capitol Building at Charleston.

44 (f) For the purposes of this article, "commissioner" or "curator" means the Curator of Arts,
45 Culture and History, and "division" or "department" means the Department of Arts, Culture and
46 History. References throughout this code to the "Commissioner of Culture and History" mean the
47 "Curator of Arts, Culture and History", and references throughout this code to the "Division of
48 Culture and History" mean the "Department of Arts, Culture and History".

49 (g) Nothing in this article or any other provision of this code may be construed to mean
50 that the Department of Arts, Culture and History is an executive department created pursuant to
51 §5F-1-2 of this code, nor that the curator is the secretary of an executive department created
52 pursuant to that section.

§29-1-2. General powers of curator.

1 The curator shall assign and allocate space in all facilities assigned to the department and
2 all space in the building presently known as the West Virginia Science and Culture Center, and
3 any other buildings or sites under the control of the curator, and may, in accordance with the
4 provisions of chapter twenty-nine-a of this code, prescribe rules, regulations and fees for the use
5 and occupancy of said facilities, including tours.

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

15 After consultation with the section directors and the commissions, the curator shall prepare
16 a proposed department budget for submission to the Governor for each fiscal year.

17 No contract, agreement or undertaking may be entered into by any section of the
18 department which involves the expenditure of funds without the express written approval of the
19 curator as to fiscal responsibility.

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

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

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect June 8, 2018.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor