

WEST VIRGINIA LEGISLATURE
2022 SECOND EXTRAORDINARY SESSION

Introduced
House Bill 206

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Introduced April 25, 2022]

1 A BILL to amend and reenact §5-6-11a of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §5-11-5 of said code; to amend and reenact §5A-8-15 of said code; to amend
3 and reenact §5B-2I-7 of said code; to amend and reenact §6C-3-1 of said code; to amend
4 and reenact §11-13J-4a of said code; to amend and reenact §16-4C-5 of said code; to
5 amend and reenact §17-4A-3 of said code; to amend and reenact §17-16A-3 of said code;
6 to amend and reenact §17-16C-4 of said code; to amend and reenact §18-2-1 of said
7 code; to amend and reenact §18-11-1 of said code; to amend and reenact §18B-1B-2 of
8 said code; to amend and reenact §22C-3-4 of said code; to amend and reenact §29-21-
9 3b of said code; to amend §29-22-4 of said code; to amend and reenact §30-38-6 of said
10 code; and to amend and reenact §30-42-4 of said code, all relating to qualifications for
11 members of boards, commissions, and other entities; reducing the number of members of
12 board of directors of the nonprofit corporation operating and maintaining the Clay Center
13 for the Arts; revising qualifications for members of the Human Rights Commission;
14 establishing qualifications for members of the Records Management and Preservation
15 Board; revising qualifications for membership on the Tourism Advisory Council; updating
16 number of members of the Public Employees Grievance Board who may be appointed
17 from each congressional district; revising the number of members of the Neighborhood
18 Investment Program Advisory Board from each congressional district; revising the number
19 of members of the Emergency Medical Services Advisory Council appointed from any one
20 congressional district; revising membership of the Complete Streets Advisory Board;
21 establishing number of appointed members of the Parkways Authority and recognizing the
22 reduction in the number of congressional districts; establishing qualifications for appointed
23 members of the Public Transit Advisory Council; revising qualifications for the appointment
24 to the West Virginia Board of Education; revising the requirements for appointed members
25 of Board of Governors; altering the composition of the Higher Education Policy
26 Commission; making technical changes to qualifications for appointment to Solid Waste

27 Management Board; modifying the membership of the Indigent Defense Commission;
28 providing for qualifications for the appointment to the State Lottery Commission; revising
29 qualifications for appointment to the Real Estate Appraiser Licensing and Certification
30 Board; and revising qualifications for appointment to the Contractor Licensing Board.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 6. STATE BUILDINGS.

§5-6-11a. Special power of commission to transfer or expend bond proceeds for capital improvements at institutions of higher education, state parks and the capitol complex and to construct and lease a center for arts and sciences of West Virginia; limitations; state building commission authorized to issue revenue bonds; fund created; use of funds to pay for development of education, arts, sciences, and tourism projects.

1 (a) The Legislature finds and declares that in order to attract new business and industry
2 to this state, to retain existing business and industry providing the citizens of this state with
3 economic security and to advance the business prosperity and economic welfare of this state it is
4 necessary to promote adequate higher education, arts, sciences, and tourism facilities, including
5 infrastructure, for: (1) State-of-the-art educational opportunities for all citizens of this state; (2)
6 tourism enhancements at state parks, the capitol complex or other tourism sites throughout the
7 state; (3) hands-on arts and sciences training for the youth of West Virginia; and (4) programs
8 using the performing arts as an educational tool. Therefore, in order to promote education, arts,

9 sciences, and tourism, the Legislature finds that public financial support should be provided for
10 constructing, equipping, improving, and maintaining capital improvement projects which promote
11 education, arts, sciences, and tourism in this state.

12 (b) The state building commission shall, by resolution, in accordance with the provisions
13 of this article, issue revenue bonds of the commission from time to time, to pay for a portion of
14 the cost of constructing, equipping, improving, or maintaining capital improvement projects under
15 this section or to refund the bonds, at the discretion of the authority. The principal amount of the
16 bonds issued under this section shall not exceed, in the aggregate, \$100 million. Any revenue
17 bonds issued on or after January 1, 1996, which are secured by lottery proceeds shall mature at
18 a time or times not exceeding 25 years from their respective dates. The principal of, and the
19 interest and redemption premium, if any, on the bonds shall be payable solely from the special
20 fund provided in this section for the payment.

21 (c) There is hereby created in the State Treasury a special revenue fund named the
22 education, arts, sciences, and tourism debt service fund into which shall be deposited on and
23 after July 1, 1996, the amounts specified in §29-22-18 of this code. All amounts deposited in the
24 fund shall be pledged to the repayment of the principal, interest and redemption premium, if any,
25 on any revenue bonds or refunding revenue bonds authorized by this section. The commission
26 may further provide in the resolution and in the trust agreement for priorities on the revenues paid
27 into the education, arts, sciences, and tourism debt service fund as may be necessary for the
28 protection of the prior rights of the holders of bonds issued at different times under the provisions
29 of this section. The bonds issued pursuant to this section shall be separate from all other bonds
30 which may be or have been issued from time to time under the provisions of this article. The
31 education, arts, sciences, and tourism debt service fund shall be pledged solely for the repayment
32 of bonds issued pursuant to this section. On or prior to May 1 of each year, commencing May 1,
33 1996, the commission shall certify to the State Lottery Director the principal and interest and
34 coverage ratio requirements for the following fiscal year on any revenue bonds or refunding

35 revenue bonds issued pursuant to this section, and for which moneys deposited in the education,
36 arts, sciences, and tourism debt service fund have been pledged, or will be pledged, for
37 repayment pursuant to this section.

38 After the commission has issued bonds authorized by this section, and after the
39 requirements of all funds have been satisfied, including coverage and reserve funds established
40 in connection with the bonds issued pursuant to this section, any balance remaining in the
41 education, arts, sciences, and tourism debt service fund may be used for the redemption of any
42 of the outstanding bonds issued under this section which, by their terms, are then redeemable or
43 for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any,
44 at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and
45 shall not again be issued.

46 (d) The commission shall expend \$25 million of the bond proceeds for certified capital
47 improvement projects at state institutions of higher education. For the purposes of certifying the
48 projects which will receive funds from the bond proceeds, a committee shall be established and
49 comprised of the Governor, or his or her designee, the secretary of the Department of
50 Administration, the Secretary of the Department of Education and the Arts, the Chancellor of the
51 University of West Virginia Board of Trustees, and the Chancellor of the Board of Directors of the
52 State College System. The committee shall meet as often as necessary and take
53 recommendations from any source whatever regarding the capital improvement projects at state
54 institutions of higher education. The committee shall meet within 45 days of the effective date of
55 this section. Prior to making its recommendations, the committee shall conduct at least two public
56 hearings, one of which must be held outside of Kanawha County. Notice of the time, place, date,
57 and purpose of the hearing shall be published in at least one newspaper in each of the three
58 congressional districts at least 14 days prior to the date of the public hearing. On or before
59 September 15, 1996, the committee shall certify to the commission a list of those capital
60 improvement projects at state institutions of higher education which will receive funds from the

61 proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be
62 altered or amended other than by legislative enactment.

63 (e) The commission shall expend up to \$26 million from the proceeds of the bonds
64 authorized by this section to pay a portion of the costs of projects certified under this subsection
65 for development, maintenance, or promotion of arts and sciences or constructing and equipping
66 a center for arts and sciences of West Virginia located on a site acquired for that purpose. Any
67 proceeds expended to pay a portion of project costs to construct and equip a center for arts and
68 sciences of West Virginia shall not exceed 40 percent of the total cost of the project and
69 permanent endowments for operation and maintenance, and bond proceeds shall not be
70 expended until 60 percent of the total cost has been committed from sources other than bond
71 proceeds. For the purposes of certifying the projects which will receive funds from the bond
72 proceeds under this subsection, a committee shall be established and ~~comprised~~ composed of
73 the Governor, or his or her designee, the secretary of the Department of Administration, the
74 Director of the Division of Natural Resources, the Director of the West Virginia Development Office
75 and a representative of the capitol building commission, other than the secretary of the
76 Department of Administration, who shall be selected by the capitol building commission. The
77 capitol building commission shall select its representative within 30 days of the effective date of
78 this section. The committee shall meet as often as necessary and take recommendations from
79 any source whatever regarding which projects should be certified. The committee shall meet
80 within 45 days of the effective date of this section. Prior to making its determination, the committee
81 shall conduct one public hearing on the projects to be certified under this subsection. Notice of
82 the time, place, date, and purpose of the hearing shall be published in at least one newspaper in
83 each of the ~~three congressional districts~~ district at least 14 days prior to the date of the public
84 hearing. The committee shall make its determination as to whether bond proceeds will be
85 expended for the purposes set forth in this subsection and the amount to be expended for each
86 project, on or before June 15, 1996. Thereafter, the decision may not be altered or amended other

87 than by legislative enactment. The commission is authorized to acquire by purchase or lease real
88 property to be used as the site for a center for arts and sciences of West Virginia; and
89 notwithstanding the provisions of §5-6-7 of this code, enter into a long-term lease agreement with
90 a nonprofit corporation organized under the laws of this state for operation and maintenance of
91 the center. The nonprofit corporation shall, as consideration for any long-term lease agreement,
92 complete the construction and equipping of the center and demonstrate to the satisfaction of the
93 commission its financial ability to operate and maintain the center during the term of the lease
94 agreement. The nonprofit corporation shall have at least ~~nine~~ six members on its board of
95 directors which are appointed by the Governor with the advice and consent of the Senate. Of the
96 ~~nine~~ six appointed members, three shall be selected from each congressional district: *Provided,*
97 That none of the appointed members shall be a resident of Kanawha County. The members
98 appointed by the Governor with the advice and consent of the Senate shall serve on the board
99 for three year staggered terms. Of the members first appointed by the Governor, one from each
100 congressional district will serve a three-year term, one from each congressional district will serve
101 a two-year term and one from each congressional district shall serve a one-year term.

102 (f) The commission shall expend the balance of the bond proceeds for certified projects at
103 state parks, the capitol complex, or other tourism sites. The committee established in subsection
104 (e) of this section shall certify to the commission on or before September 15, 1996, a list of those
105 capital improvement projects at state parks, the capitol complex, or other tourism sites which will
106 receive funds from the proceeds of bonds issued pursuant to this section. The committee shall
107 meet as often as necessary and take recommendations from any source whatever regarding the
108 capital improvement projects at state parks, the capitol complex, or other tourism sites in this
109 state. The committee shall meet within 45 days of the effective date of this section. Prior to making
110 its recommendations, the committee shall conduct at least two public hearings on the projects to
111 be certified under this subsection, one of which must be held outside of Kanawha County. Notice
112 of the time, place, date, and purpose of the hearing shall be published in at least one newspaper

113 in each of the ~~three congressional districts~~ district at least 14 days prior to the date of the public
114 hearing. Once certified, the list may not thereafter be altered or amended other than by legislative
115 enactment.

ARTICLE 11. HUMAN RIGHTS COMMISSION.

§5-11-5. Composition; appointment, terms, and oath of members; compensation and expenses.

1 The commission shall be composed of nine members, all residents and citizens of the
2 State of West Virginia and broadly representative of the several racial, religious, and ethnic groups
3 residing within the state, to be appointed by the Governor, by and with the advice and consent of
4 the Senate. Not more than five members of the commission shall be members of the same political
5 party and ~~at least one member, but not more than three members, shall be~~ not more than five
6 members shall be appointed from any one congressional district.

7 Members of the commission shall be appointed for terms of three years commencing on
8 July 1, of the year of their appointments, except that the nine members first appointed hereunder
9 shall be appointed for terms of from one to three years, respectively, so that the terms of three
10 members of the commission will expire on June 30 of each succeeding year thereafter. Upon the
11 expiration of the initial terms, all subsequent appointments shall be for terms of three years each,
12 except that appointments to fill vacancies shall be for the unexpired term thereof. Members shall
13 be eligible for reappointment. Before assuming and performing any duties as a member of the
14 commission, each commission member shall take and subscribe to the official oath prescribed by
15 section 5, article IV of the Constitution of West Virginia, which executed oath shall be filed in the
16 office of the Secretary of State.

17 The members of the commission shall not receive a salary, but each appointed member
18 shall be paid \$50 per diem for actual time spent in the performance of duties under this article
19 and shall be reimbursed for actual and necessary expenses incident to the performance of their
20 duties, upon presentation of an itemized and sworn statement thereof. The foregoing per diem

21 and reimbursement for actual and necessary expenses shall be paid from appropriations made
22 by the Legislature to the commission.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT.

§5A-8-15. Records management and preservation of county records; alternate storage of county records; Records Management and Preservation Board; qualifications and appointment of members; reimbursement of expenses; staffing; rule-making authority; study of records management needs of state agencies; grants to counties.

1 The Legislature finds that the use of electronic technology and other procedures to
2 manage and preserve public records by counties should be uniform throughout the state where
3 possible.

4 (a) The governing body and the chief elected official of a county, hereinafter referred to as
5 a county government entity, whether organized and existing under a charter or under general law,
6 shall promote the principles of efficient records management and preservation of local records. A
7 county governing entity may, as far as practical, follow the program established for the uniform
8 management and preservation of county records as set out in rules proposed for legislative
9 approval in accordance with the provisions of §29A-3-1 *et seq.* of this code as proposed by the
10 Records Management and Preservation Board.

11 (b) In the event a county government entity decides to destroy or otherwise dispose of a
12 county record, the county government entity may, prior to destruction or disposal thereof, offer
13 the record to the director of Archives and History within the Department of Arts, Culture, and
14 History for preservation of the record as a document of historical value. Unless authorized by the
15 Supreme Court of Appeals, the records of courts of record and magistrate courts are not affected
16 by the provisions of this section.

17 (c)(1) A preservation duplicate of a county government entity record may be stored in any
18 format approved by the board in which the image of the original record is preserved in a form,
19 including electronic file, in which the image is incapable of erasure or alteration and from which a
20 reproduction of the stored record may be retrieved that truly and accurately depicts the image of
21 the original county government record.

22 (2) Except for those formats, processes, and systems used for the storage of records on
23 the effective date of this section, no alternate format for the storage of county government entity
24 records described in this section is authorized for the storage of county government entity records
25 unless the particular format has been approved pursuant to a legislative rule promulgated by the
26 board in accordance with the provisions of chapter 29A of this code. The board may prohibit the
27 use of any format, process, or system used for the storage of records upon its determination that
28 the same is not reasonably adequate to preserve the records from destruction, alteration, or
29 decay.

30 (3) Upon creation of a preservation duplicate that stores an original county government
31 entity record in an approved format that is incapable of erasure or alteration and that may be
32 retrieved in a format that truly and accurately depicts the image of the original record, the county
33 government entity may destroy or otherwise dispose of the original in accordance with the
34 provisions of §57-1-7c of this code.

35 (d) A Records Management and Preservation Board for county government entities is
36 continued, to be composed of 11 members.

37 (1) Three members shall serve ex officio. One member shall be the curator of the
38 Department of Arts, Culture, and History or designee who shall be the chair of the board. One
39 member shall be the administrator of the Supreme Court of Appeals or designee. One member
40 shall be the Chief Technology Officer or designee.

41 (2) The Governor shall appoint eight members of the board, with the advice and consent
42 of the Senate. Not more than five appointments to the board may be from the same political party

43 and ~~not more than three~~ four members ~~may~~ shall be appointed from ~~the same~~ each congressional
44 district. Of the eight members appointed by the Governor:

45 (i) Five appointments shall be county elected officials, one of whom shall be a clerk of a
46 county commission, one of whom shall be a circuit court clerk, one of whom shall be a county
47 commissioner, one of whom shall be a county sheriff, and one of whom shall be a county
48 assessor, to be selected from a list of 15 names. The names of three clerks of county commissions
49 and three circuit court clerks shall be submitted to the Governor by the West Virginia Association
50 of Counties. The names of three county commissioners shall be submitted to the Governor jointly
51 by the West Virginia Association of Counties and the West Virginia County Commissioners
52 Association. The names of three county sheriffs shall be submitted to the Governor by the West
53 Virginia Sheriff's Association. The names of three county assessors shall be submitted to the
54 Governor by the Association of West Virginia Assessors;

55 (ii) One appointment shall be a county prosecuting attorney to be selected from a list of
56 three names submitted by the West Virginia Prosecuting Attorneys Institute;

57 (iii) One appointment shall be an attorney licensed in West Virginia and in good standing
58 as a member of the West Virginia State Bar with experience in real estate and mineral title
59 examination, to be selected from a list of three names submitted by the State Bar; and

60 (iv) One appointment shall be a representative of a local historical or genealogical society.

61 (e) The members of the board shall serve without compensation but shall be reimbursed
62 for all reasonable and necessary expenses actually incurred in the performance of their duties as
63 members of the board in a manner consistent with the guidelines of the Travel Management Office
64 of the Department of Administration. In the event the expenses are paid, or are to be paid, by a
65 third party, the member shall not be reimbursed by the state.

66 (f) The staff of the board shall consist of the director of Archives and History within the
67 Department of Arts, Culture, and History and any additional staff as needed.

68 (g) The board shall propose rules for legislative approval in accordance with the provisions
69 of §29A-3-1 *et seq.* of this code to establish a system of records management and preservation
70 for county governments: *Provided*, That, for the retention and disposition of records of courts of
71 record and magistrate courts, the implementation of the rule is subject to action by the Supreme
72 Court of Appeals of West Virginia. The proposed rules shall include provisions for establishing a
73 program of grants to county governments for making records management and preservation
74 uniform throughout the state.

75 (h) In addition to the fees charged by the clerk of the county commission under the
76 provisions of §59-1-10 of this code, the clerk shall charge and collect an additional \$2 fee for
77 every document containing less than 20 pages filed for recording and an additional \$1 fee for
78 each additional 10 pages of document filed for recording. At the end of each month, the clerk of
79 the county commission shall deposit into the Public Records and Preservation Revenue Account
80 as established in the State Treasury all fees collected: *Provided*, That the clerk may retain not
81 more than 10 percent of the fees for costs associated with the collection of the fees. Clerks shall
82 be responsible for accounting for the collection and deposit in the State Treasury of all fees
83 collected by the clerk under the provisions of this section.

84 (i) There is hereby created in the State Treasury a special account entitled the Public
85 Records and Preservation Revenue Account. The account shall consist of all fees collected under
86 the provisions of this section, legislative appropriations, interest earned from fees, investments,
87 gifts, grants, or contributions received by the board. Expenditures from the account shall be for
88 the purposes set forth in this article and are not authorized from collections but are to be made
89 only in accordance with appropriation by the Legislature and in accordance with the provisions of
90 §12-3-1 *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1 *et seq.*
91 of this code.

92 (j) Subject to the above provision, the board may expend the funds in the account to
93 implement the provisions of this article. In expending funds from the account, the board shall

94 allocate not more than 50 percent of the funds for grants to counties for records management,
95 access, and preservation purposes. The board shall provide for applications, set guidelines, and
96 establish procedures for distributing grants to counties, including a process for appealing an
97 adverse decision on a grant application. Expenditures from the account shall be for the purposes
98 set forth in this section, including the cost of additional staff of the Division of Archives and History.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2I. DEPARTMENT OF TOURISM.

§5B-2I-7. Tourism Advisory Council; members, appointment, and expenses.

1 (a) There is continued within the Department of Tourism an independent Tourism Advisory
2 Council.

3 (b) The Tourism Advisory Council consists of the following 16 members:

4 (1) The Secretary of Commerce or his or her designee, ex officio;

5 (2) The Secretary of the Department of Economic Development or his or her designee, ex
6 officio;

7 (3) The Secretary of Transportation or his or her designee, ex officio;

8 (4) Twelve members appointed by the Governor, with the advice and consent of the
9 Senate, representing participants in the state's tourism industry. Ten of the members shall be
10 from the private sector, one shall be a director employed by a convention and visitors bureau and
11 one shall be a member of a convention and visitors bureau. In making the appointments, the
12 Governor may select from a list provided by the West Virginia Hospitality and Travel Association
13 of qualified applicants. Of the 12 members so appointed, no ~~less~~ fewer than ~~three~~ five shall be
14 from each congressional district within the state and shall be appointed to provide the broadest
15 geographic distribution ~~which~~ that is feasible;

16 (5) One member to be appointed by the Governor to represent public sector nonstate
17 participants in the tourism industry within the state.

18 (c) Each member appointed by the Governor serves a staggered term of four years. Any
19 member whose term has expired serves until his or her successor has been appointed. Any
20 person appointed to fill a vacancy serves only for the unexpired term. Any member is eligible for
21 reappointment. In case of a vacancy in the office of a member, the vacancy shall be filled by the
22 Governor in the same manner as the original appointment.

23 (d) The chair of the Tourism Advisory Council shall be appointed by the Governor from
24 members then serving on the commission, and serves at the will and pleasure of the Governor.

25 (e) The Tourism Advisory Council shall:

26 (1) Advise the secretary of the Department of Tourism in the development and
27 implementation of the state's comprehensive tourism advertising, marketing, promotion, and
28 development strategy; and

29 (2) Take all actions, in consultation with the secretary, necessary to settle, finalize, and
30 conclude all outstanding advertising grants or other financial obligations of the Tourism Advisory
31 Council respecting funds in the Tourism Promotion Fund previously approved, expended or
32 obligated by the Tourism Advisory Council as of the effective date of this article.

33 (f) Members of the Tourism Advisory Council are not entitled to compensation for services
34 performed as members. Each member from the private sector is entitled to reimbursement for
35 reasonable expenses incurred in the discharge of their official duties. All expenses incurred by
36 members from the private sector shall be paid in a manner consistent with guidelines of the Travel
37 Management Office of the Department of Administration and are payable solely from the funds of
38 the Department of Tourism or from funds appropriated for that purpose by the Legislature. Liability
39 or obligation is not incurred by the Department of Tourism beyond the extent to which moneys
40 are available from funds of the authority or from the appropriations.

41 (g) Members shall meet quarterly as designated by the chair.

CHAPTER 6C. PUBLIC EMPLOYEES.

ARTICLE 3. WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD.

§6C-3-1. West Virginia Public Employees Grievance Board.

1 (a) Effective June 30, 2007, the Education and State Employees Grievance Board, and
2 the employment of the hearing examiners and administrative law judges under the board,
3 terminate.

4 (b) Effective July 1, 2007, the West Virginia Public Employees Grievance Board is created
5 as an independent entity under the Department of Administration and all references to the
6 Education and State Employees Grievance Board in the code shall be considered to refer to the
7 West Virginia Public Employees Grievance Board.

8 (c) On or before July 1, 2007, the Governor, by and with the advice and consent of the
9 Senate, shall appoint the following five members to the board for the following terms:

10 (1) One person representing the largest labor organization in the state for a term of three
11 years;

12 (2) One person representing an education employee organization in the state for a term
13 of two years;

14 (3) One employer representative from the executive branch for a term of two years;

15 (4) One employer representative from secondary or higher education for a term of three
16 years; and

17 (5) One citizen member, who is not a current employee, employer or a representative of
18 employees in a workplace in the public, educational or higher educational sector of this state, for
19 a term of one year.

20 (d) After the initial appointment, the board term shall be three years.

21 (e) No member may serve more than two consecutive full terms and any member having
22 served two consecutive full terms may not be appointed for one year after completion of his or
23 her second full term. A member shall continue to serve until his or her successor has been
24 appointed and qualified.

25 (f) A vacancy on the board shall be filled by the Governor by appointment of a like member
26 for the unexpired term of the member whose office is vacant.

27 (g) The membership of the board shall represent each congressional district, with no more
28 than ~~two~~ three members from any one district and no more than three members may be from the
29 same political party.

30 (h) Each member of the board, at the time of his or her appointment, must have been a
31 resident of this state for a period of not less than one year immediately preceding the appointment
32 and each member of the board shall remain a resident of this state during the appointment term.

33 (i) The Governor may remove any member from the board for neglect of duty,
34 incompetency, criminal convictions, or official misconduct.

35 (j) Any member of the board immediately and automatically forfeits his or her membership
36 if he or she is convicted of a felony under the laws of any state or the United States, or becomes
37 a nonresident of this state.

38 (k) The board shall hold at least four meetings per year. Other meetings shall be held at
39 the call of the chairperson or upon the written request of two members, at such time and place as
40 designated in the call or request.

41 (l) The board shall designate one of its members as chairperson and one member as
42 secretary-treasurer who shall serve at the will of the board.

43 (m) A majority of the members of the board constitute a quorum.

44 (n) Each member of the board is entitled to receive compensation and expense
45 reimbursement as is accorded legislators in the performance of their duties.

CHAPTER 11. TAXATION.

ARTICLE 13J. NEIGHBORHOOD INVESTMENT PROGRAM.

§11-13J-4a. Neighborhood Investment Program Advisory Board.

1 (a) There is hereby created a Neighborhood Investment Program Advisory Board, which
2 shall consist of 12 voting members and the chairperson.

3 (b) *Chairperson.* —

4 (1) The Director of the West Virginia Development Office, or the designee of the Director
5 of the West Virginia Development Office, shall be the ex officio chairperson of the Neighborhood
6 Investment Program Advisory Board.

7 (2) The chairperson shall vote on actions of the board only in the event of a tie vote, in
8 which case the chairperson's vote shall be the deciding vote.

9 (c) *Board members.* —

10 (1) Four members shall be officers or members of the boards of directors of unrelated
11 corporations which are not affiliated with one another and which are currently licensed to do
12 business in West Virginia.

13 (2) Four members shall be executive directors, officers, or members of the boards of
14 directors of unrelated not-for-profit organizations which are not affiliated with one another which
15 currently hold charitable organization status under Section 501(c)(3) of the Internal Revenue
16 Code and which are currently licensed to do business in West Virginia.

17 (3) Four members shall be economically disadvantaged citizens of the state that, for the
18 taxable year immediately preceding the year of appointment to the board, had an annual gross
19 personal income that was not more than 125 percent of the federal designated poverty level for
20 personal incomes, and who has been a domiciliary and resident of this state for at least one year
21 at the time of appointment.

22 A member appointed under this subdivision is not disqualified from completion of his or
23 her term if his or her income in the year of appointment or in any year subsequent to the year of
24 appointment exceeds 125 percent of the federal designated poverty level. A member shall not be
25 eligible for reappointment under this subdivision unless he or she meets the original qualifications
26 for appointment: *Provided*, That such member may be reappointed pursuant to qualification under
27 subdivision (1) or (2) of this subsection if the member meets the requirements of subdivision (1)
28 or (2), respectively.

29 (d) *Limitations; terms of members; appointments.* —

30 (1) ~~Not more than four~~ Six members, exclusive of the chairperson, shall be appointed from
31 ~~any one~~ each congressional district. Not more than seven of the members, exclusive of the
32 chairperson, may belong to the same political party. Members shall be eligible for reappointment.
33 However, no member may serve for more than three consecutive terms.

34 (2) *Appointment terms.* —

35 (A) Except for initial appointments described under subdivision (3) of this subsection, and
36 except for midterm special appointments made to fill irregular vacancies on the board, members
37 shall be appointed for terms of three years each.

38 (B) Except for midterm special appointments made to fill irregular vacancies on the board,
39 appointment terms shall begin on July 1 of the beginning year. All appointment terms, special and
40 regular, shall end on June 30 of the ending year.

41 (3) *Selection of members.* —

42 (A) For the initial appointment of members under this subdivision, members shall be
43 selected by the Director of the West Virginia Development Office.

44 (B) At the end of a member's term, the chairperson shall solicit new member nominations
45 from the board and appoint the most appropriate person to serve, in compliance with the
46 requirements set forth in this section.

47 (C) Vacancies on the board shall be filled in the same manner as the original appointments
48 for the duration of the unexpired term.

49 (e) *Quorum; meetings; funding.* —

50 (1) The presence of a majority of the members of the board constitutes a quorum for the
51 transaction of business. The board shall elect from among its members a vice chairperson and
52 such other officers as are necessary.

53 (2) The board shall meet not less than two times during the fiscal year, and additional
54 meetings may be held upon a call of the chairperson or of a majority of the members: *Provided,*

55 That no meeting of the board shall be required if the total amount of tax credits available for the
56 fiscal year have been allotted.

57 (3) Board members shall be reimbursed by the West Virginia Development Office for sums
58 necessary to carry out responsibilities of the board and for reasonable travel expenses to attend
59 board meetings.

60 (f) *Annual report.* — The board shall make a report to the Governor and the Legislature
61 within 30 days of the close of each fiscal year. The report shall include summaries of all meetings
62 of the board, an analysis of the overall progress of the program, fiscal concerns, the relative
63 impact the program is having on the state and any suggestions and policy recommendations that
64 the board may have. The report shall be public information made available to the general public
65 for examination and copying. The board is authorized to publish the annual report, should the
66 board elect to do so.

67 (g) *Duties of the board.* —

68 (1) *Administrative duties.* — The board shall be responsible for advising the West Virginia
69 Development Office concerning the administrative obligations of the program.

70 (2) *Project evaluation and approval; prohibition on project promotion.* —

71 (A) The board shall select and approve projects, which may then be certified by the
72 Director of the West Virginia Development Office pursuant to section four of this article.

73 (B) Only projects sponsored by qualified charitable organizations, as defined in section
74 three of this article, may be approved by the board or certified by the Director of the West Virginia
75 Development Office. An applicant that does not hold current status as a charitable organization
76 under Section 501(c)(3) of the Internal Revenue Code may not receive project approval from the
77 board, or project certification from the Director of the West Virginia Development Office, for any
78 proposed project. Failure of any applicant to provide convincing documentation proving such
79 status as a charitable organization under Section 501(c)(3) of the Internal Revenue Code shall
80 result in automatic denial of project approval and denial of project certification under this article.

81 (3) *Criteria for evaluation.* — In evaluating projects for approval, the board shall give
82 priority to projects based upon the following criteria. A proposed project shall be favored if:

83 (A) The project is community based.

84 (B) The proposed project will primarily serve low-income persons.

85 (C) The proposed project will serve highly distressed neighborhoods or communities.

86 (D) The project plan incorporates collaborative partnerships among nonprofit groups,
87 businesses, government organizations, and other community organizations.

88 (E) The applicant or sponsor of the project has demonstrated a proven capacity to deliver
89 the proposed services.

90 (F) The applicant or sponsor of the project historically maintains reasonable administrative
91 costs.

92 (G) The applicant produces a strong showing of need for the services which the proposed
93 project would provide, and produces convincing documentation of that need.

94 (H) The proposed project is innovative, novel, creative, or unique in program approach.

95 (I) The proposed project is a direct need program or will provide emergency assistance.

96 (4) If an applicant is directly or indirectly affiliated with one or more board members, those
97 members shall not discuss the proposals with one or more board members, and shall not have a
98 vote when that project is considered for final approval or disapproval.

99 (5) *Project approval by the board.* — Proposed projects shall be approved or denied
100 approval by a majority vote of the board after competitive comparison with proposed projects of
101 other applicants.

102 (h) *Project certification by the Director of the West Virginia Development Office.* —

103 (1) Upon issuance of approval for a project by the board, the approved project shall be
104 certified by the Director of the West Virginia Development Office: *Provided*, That no certification
105 may issue for any project, even though the project may have been approved by the board, if the
106 issuance of certification for such project will cause the aggregate amount of tax credits certified

107 to exceed the limitation set forth in this article. No certification may be issued by the Director of
108 the West Virginia Development Office for any project which has not been approved by the board.

109 (2) The West Virginia Development Office shall promptly notify applicants of the issuance
110 of certification for their projects and shall issue tax credit vouchers to certified project applicants
111 in the amount of the tax credit represented by the project.

112 (3) The West Virginia Development Office may provide incidental technical support and
113 guidance to projects certified under this article and may monitor the progress of the projects. The
114 West Virginia Development Office shall make a biannual report to the board on the progress of
115 certified projects and the program generally.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-5. Emergency Medical Services Advisory Council; duties; composition; appointment; meetings; compensation and expenses.

1 (a) The Emergency Medical Services Advisory Council, created and established by former
2 §16-4C-7 of this code, is continued for the purpose of developing, with the commissioner,
3 standards for emergency medical services personnel and for the purpose of providing advice to
4 the Office of Emergency Medical Services and the commissioner with respect to reviewing and
5 making recommendations for, and providing assistance to, the establishment and maintenance
6 of adequate emergency medical services for all portions of this state.

7 (b) The council shall advise the commissioner in all matters pertaining to his or her duties
8 and functions in relation to carrying out the purposes of this article.

9 (c) The council shall review any rule proposed by the commissioner for legislative approval
10 as provided for in §16-4C-6(a) of this code. After reviewing the legislative rule, the Emergency
11 Medical Services Advisory Council shall provide a recommendation to the Legislative Rule-
12 Making Review Committee that the Legislature:

- 13 (1) Authorize the promulgation of the legislative rule;
- 14 (2) Authorize the promulgation of part of the legislative rule;
- 15 (3) Authorize the promulgation of the legislative rule with certain amendments;
- 16 (4) Recommend that the proposed rule be withdrawn; or
- 17 (5) Reject the proposed rule.

18 (d) The council shall be composed of 18 members appointed by the Governor by and with
19 the advice and consent of the Senate. The Mountain State Emergency Medical Services
20 Association shall submit to the Governor a list of six names of representatives from its association
21 and a list of three names shall be submitted to the Governor of representatives of their respective
22 organizations by the County Commissioners' Association of West Virginia, the West Virginia State
23 Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the
24 American College of Emergency Physicians, the West Virginia Emergency Medical Services
25 Administrators Association, the West Virginia Emergency Medical Services Coalition, the
26 Ambulance Association of West Virginia, and the State Department of Education. The Governor
27 shall appoint, from the respective lists submitted, two persons who represent the Mountain State
28 Emergency Medical Services Association, one of whom shall be a paramedic and one of whom
29 shall be an emergency medical technician-basic; and one person from the County
30 Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the
31 West Virginia Hospital Association, the West Virginia Chapter of the American College of
32 Emergency Physicians, the West Virginia Emergency Medical Services Administrators
33 Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association
34 of West Virginia, and the State Department of Education. In addition, the Governor shall appoint
35 the following:

- 36 (1) One person to represent emergency medical services providers operating within the
37 state;

38 (2) One person to represent small emergency medical services providers operating within
39 this state;

40 (3) One person to represent emergency medical services training officers or
41 representatives;

42 (4) Two people to represent emergency medical services supervisors or administrators;
43 and

44 (5) Three people to represent the general public who serve as voting members.

45 (e) ~~Not more than six of the~~ Nine members ~~may~~ shall be appointed from ~~any one~~ each
46 congressional district.

47 (f) Each term is to be for three years, and no member may serve more than four
48 consecutive terms.

49 (g) The council shall choose its own chairperson and meet at the call of the commissioner
50 at least twice a year.

51 (h) The members of the council shall receive compensation and expense reimbursement
52 in an amount not to exceed the same compensation and expense reimbursement as is paid to
53 members of the Legislature for their interim duties as recommended by the Citizens Legislative
54 Compensation Commission and authorized by law for each day, or substantial portion thereof,
55 engaged in the performance of official duties.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 4A. COMPLETE STREETS ACT.

§17-4A-3. Complete Streets Advisory Board.

1 (a) A Complete Streets Advisory Board to the Division of Highways is established to:

2 (1) Provide and facilitate communication, education and advice between the Division of
3 Highways, counties, municipalities, interest groups and the public;

4 (2) Make recommendations to the Division of Highways, counties, and municipalities for
5 restructuring procedures, updating design guidance, providing educational opportunities to
6 employees, and creating new measures to track the success of multimodal planning and design;
7 and

8 (3) Submit to the Joint Committee on Government and Finance, through the Division of
9 Highways, an annual report as outlined herein.

10 (b) The advisory board shall consist of ~~sixteen~~ 15 members, designated as follows:

11 (1) The Commissioner of Highways or his or her designee;

12 (2) The Secretary of the Department of Transportation or his or her designee;

13 (3) The Secretary of the Department of Health and Human Resources or his or her
14 designee; and

15 (4) ~~Thirteen~~ Twelve members that who serve at the will and pleasure of the Governor and
16 appointed by the Governor as follows:

17 (A) One member who is a licensed engineer with expertise in transportation or civil
18 engineering;

19 (B) One member representing the American Planning Association;

20 (C) One member representing a state association of counties;

21 (D) One member representing state association of municipalities;

22 (E) One member representing a major regional or local public transportation agency;

23 (F) One member representing a national association of retired persons;

24 (G) One member representing an organization interested in the promotion of bicycling;

25 (H) One member representing an organization interested in the promotion of walking and
26 health;

27 (I) One member representing an organization representing persons with disabilities;

28 (J) One member representing an automobile and/or trucking organization; and

29 (K) ~~Three~~ Two members of the general public interested in promoting complete streets
30 policies, one representing each congressional district, as determined by the Governor.

31 (c) The Commissioner of Highways shall serve as the first chair of the board. The board
32 shall meet at least twice a year and at the call of the chair or a majority of the members. The
33 members of the board shall annually elect one of its members to serve as chair after the first year.

34 (d) The initial terms of appointment for members appointed by the Governor shall be as
35 follows: Three members appointed to a term of one year, three members appointed to a term of
36 two years, three members appointed to a term of three years and four members appointed to a
37 term of four years. Thereafter each member shall be appointed for four years. A member shall
38 serve until his or her successor is appointed. In the case of a vacancy the appointee shall serve
39 the remainder of the unexpired term. Members of the board may succeed themselves and shall
40 serve without compensation. The members appointed by the Governor are entitled to be
41 reimbursed in a manner consistent with the guidelines of the Travel Management Office of the
42 Department of Administration for actual and necessary mileage expenses incurred while attending
43 official meetings of the board.

44 (e) On December 1, 2013, and on December 1 every year thereafter, the board shall
45 submit an annual report to the Governor, the Commissioner of Highways and the Joint Committee
46 on Government and Finance on the status of implementation of section one of this article.

47 (1) The annual report shall include the following information:

48 (A) A summary of actions taken by the Division of Highways in the preceding year to
49 improve the safety, access and mobility of roadways pursuant to section one of this article;

50 (B) Modifications made to or recommended for protocols, guidance, standards or other
51 requirements to facilitate complete streets implementation;

52 (C) Status of the development of multimodal performance indicators;

53 (D) Any information obtained on the use made of bicycle, pedestrian, transit and highway
54 facilities together with the existing target level of use for these modes, if any;

55 (E) Available crash statistics by mode, age, road type and location and other relevant
56 factors; and

57 (F) Other related information that may be requested by the Governor or Legislature.

58 (2) The Division of Highways may assist the board in the preparation of the board's annual
59 report.

**ARTICLE 16A. WEST VIRGINIA PARKWAYS, ECONOMIC DEVELOPMENT AND
TOURISM AUTHORITY.**

§17-16A-3. West Virginia Parkways Authority.

1 (a) The West Virginia Parkways, Economic Development and Tourism Authority is
2 continued as an agency of the state, and commencing July 1, 2010, it shall be known as the West
3 Virginia Parkways Authority. Any reference to the West Virginia Parkways, Economic
4 Development and Tourism Authority within this code shall mean the West Virginia Parkways
5 Authority.

6 ~~(b) To be effective on July 1, 2010, the Governor shall appoint, by and with the advice and
7 consent of the Senate:~~

8 ~~(1) A public member representing the first congressional district for a term of five years;~~
9 and

10 ~~(2) A public member representing the first congressional district for a term of four years.~~

11 ~~(c) The public member representing the third congressional district whose term expires in
12 2010 may be reappointed for a term of five years. The public member representing the second
13 congressional district whose term expires in 2011 may be reappointed for a term of five years.~~

14 ~~(d) To be effective on July 1, 2014, the Governor shall appoint, by and with the advice and
15 consent of the Senate, a public member representing the second congressional district for a term
16 of five years to replace the public member representing the third congressional district whose
17 term expires in 2014.~~

18 ~~(e) To be effective on July 1, 2015, the Governor shall appoint, by and with the advice and~~
19 ~~consent of the Senate, an at-large public member for a term of five years to replace one of the~~
20 ~~public members representing the third congressional district whose terms expire in 2015.~~

21 (f) Commencing July 1, 2015, the (b) The Authority shall consist of the following ~~nine~~ seven
22 members:

23 (1) The Governor or a designee;

24 (2) The Secretary of the Department of Transportation or a designee;

25 (3) Two public members representing the first congressional district;

26 (4) Two public members representing the second congressional district;

27 ~~(5) Two public members representing the third congressional district; and~~

28 ~~(6)~~ (5) One at-large public member.

29 ~~(g) After the initial appointment term, the~~ (c) The term for the public members shall be five
30 years. All public members' appointments shall be made by the Governor, by and with the advice
31 and consent of the Senate.

32 ~~(h)~~ (d) A public member may not serve more than two consecutive full five-year terms. A
33 public member may continue to serve until a successor has been appointed and has qualified.

34 ~~(i)~~ (e) Each public member shall be a resident of this state during the appointment term
35 and shall have been a qualified elector for a period of at least one year next preceding the
36 appointment.

37 ~~(j)~~ (f) A vacancy on the authority shall be filled by appointment by the Governor for the
38 unexpired term of the public member whose office is vacant and the appointment shall be made
39 within 60 days of the vacancy.

40 ~~(k)~~ (g) The Governor may remove any public member from the authority for neglect of
41 duty, incompetency, or official misconduct.

42 ~~(h)~~ (h) A public member immediately and automatically forfeits membership to the authority
43 if he or she is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident
44 of this state.

45 ~~(m)~~ (i) The Governor or designee shall serve as chair of the authority. The authority shall
46 annually elect one of the public members as vice chair, and shall also elect a secretary and
47 treasurer who need not be members of the authority.

48 ~~(n)~~ (j) The Governor shall appoint an Executive Director of the Authority, by and with the
49 advice and consent of the Senate. The Executive Director serves at the will and pleasure of the
50 Governor. The Executive Director is responsible for managing and administering the daily
51 functions of the authority and performing all other functions necessary to the effective operation
52 of the authority. The compensation of the Executive Director is annually set by the Governor.

53 ~~(o)~~ (k) The public members of the authority are not entitled to compensation for their
54 services, but shall be reimbursed for all reasonable and necessary expenses actually incurred in
55 the performance of their duties in a manner consistent with guidelines of the Travel Management
56 Office of the Department of Administration.

57 ~~(p)~~ (l) ~~Five~~ Four members of the authority constitutes a quorum and the vote of a majority
58 of members present shall be necessary for any action taken by the authority. No vacancy in the
59 membership of the authority shall impair the right of a quorum to exercise all the rights and perform
60 all the duties of the authority.

61 ~~(q)~~ (m) The authority shall meet at least monthly. The chair or any ~~five~~ four members of
62 the authority may call a special meeting: *Provided*, That notice shall be given to all members of
63 the authority not less than 10 days prior to any special meeting.

64 ~~(r)~~ (n) Prior to commencing his or her duties as a member of the authority, each public
65 member shall take and subscribe to the oath required by section five, article IV of the Constitution
66 of this state.

67 ~~(s)~~ (o) Before the issuance of any revenue bonds or revenue refunding bonds under the
68 provisions of this article, each public member of the authority shall execute a surety bond in the
69 penal sum of \$25,000. The secretary and treasurer of the authority shall execute a surety bond
70 in the penal sum of \$50,000. Each surety bond shall be conditioned upon the faithful performance
71 of the duties of his or her office, shall be executed by a surety company authorized to transact
72 business in West Virginia as a surety, shall be approved by the Governor and filed in the Office
73 of the Secretary of State.

74 ~~(t)~~ (p) All expenses incurred in carrying out the provisions of this article shall be paid solely
75 from funds provided under this article and no liability or obligation shall be incurred by the authority
76 beyond the extent to which moneys shall have been provided under this article.

ARTICLE 16C. DIVISION OF PUBLIC TRANSIT.

§17-16C-4. Public transit advisory council.

1 There is hereby created the West Virginia public transit advisory council which shall
2 consist of 11 members, selected by the Governor, who shall serve for two year terms commencing
3 on April 1, 1992, and who shall serve at the will and pleasure of the Governor. The membership
4 of the council shall be broadly representative of those groups affected by the implementation of
5 this article: *Provided*, That no more than ~~four~~ six of the members of the council shall reside in the
6 same congressional district. No more than six members may be of the same political party. The
7 members of the council shall serve without compensation and without provision for their expenses
8 related to the work of the council. The council shall provide consultation, on an advisory basis, to
9 the division of public transit on matters related to the implementation of the pilot program or
10 programs referred to in subdivision (d), section three of this article.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-1. Creation; composition; appointment, qualifications, terms and removal of members; offices.

1 There is a state Board of Education, to be known as the West Virginia Board of Education,
2 which is a corporation and as such may contract and be contracted with, plead and be impleaded,
3 sue and be sued, and have and use a common seal. The state board consists of 12 members, of
4 whom one is the state Superintendent of Schools, ex officio; one of whom is the chancellor of the
5 Higher Education Policy Commission, ex officio; and one of whom is the chancellor of the West
6 Virginia council for community and technical college education, ex officio, none of whom is entitled
7 to vote. The other nine members are citizens of the state, appointed by the Governor, by and with
8 the advice and consent of the Senate, for overlapping terms of nine years. Terms of office begin
9 on November 5, of the appropriate year and end on November 4, of the appropriate year. ~~At least~~
10 ~~two, but not more than three,~~ Not more than five members are appointed from ~~each~~ any one
11 congressional district.

12 No more than five of the appointive members may belong to the same political party and
13 no person is eligible for appointment to membership on the state board who is a member of any
14 political party executive committee or holds any other public office or public employment under
15 the federal government or under the government of this state or any of its political subdivisions,
16 or who is an appointee or employee of the board. Members are eligible for reappointment. Any
17 vacancy on the board shall be filled by the Governor by appointment for the unexpired term.

18 Notwithstanding the provisions of §6-6-4 of this code, a member of the state board may
19 not be removed from office by the Governor except for official misconduct, incompetence, neglect
20 of duty or gross immorality and then only in the manner prescribed by law for the removal by the
21 Governor of state elective officers.

22 Before exercising any authority or performing any duties as a member of the state board,
23 each member shall qualify as such by taking and subscribing to the oath of office prescribed by
24 section five, article IV of the Constitution of West Virginia, the certificate whereof shall be filed

25 with the Secretary of State. A suitable office in the state Department of Education at the state
26 Capitol shall be provided for use by the state board.

ARTICLE 11. WEST VIRGINIA UNIVERSITY.

§18-11-1. Continuation; board of Governors [board of regents].

1 The West Virginia University, heretofore established and located at Morgantown, in
2 Monongalia county, shall be continued, and shall be known as West Virginia University. The
3 business and educational affairs of the university shall be under the control, supervision and
4 management of the board of Governors, which shall be a corporation, and as such may contract
5 and be contracted with, sue and be sued, plead and be impleaded, and have and use a common
6 seal. The board of Governors shall consist of nine members, all of whom shall be citizens of the
7 state, to be appointed by the Governor, by and with the advice and consent of the Senate, for
8 overlapping terms of nine years, except that the original appointments shall be for terms of one,
9 two, three, four, five, six, seven, eight, and nine years, respectively. ~~At least one but not~~ Not more
10 than ~~two~~ five members shall be appointed from each congressional district and at least four
11 members shall be graduates of West Virginia University. No more than five members shall belong
12 to the same political party. No person shall be eligible for membership on the board of Governors
13 who is a member of any political party executive committee, or who holds any other public office
14 or public employment under the federal government or under the government of this state or any
15 of its political subdivisions, or who is an appointee or employee of the board. Members shall be
16 eligible for reappointment.

17 The Governor shall appoint all members of the board of Governors as soon after the
18 effective date hereof as is practicable, for respective terms of office beginning on July 1, 1947.
19 Any vacancy on the board of Governors shall be filled by the Governor by appointment for the
20 unexpired term. The terms of office of present members of the board of Governors shall expire
21 on June 30, 1947.

22 No member may be removed from office by the Governor except for official misconduct,
23 incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by
24 law for the removal by the Governor of state elective officers.

25 Before exercising any authority or performing any duties as a member of the board of
26 Governors, each member shall qualify as such by taking and subscribing to the oath of office
27 prescribed by section 5, article IV of the Constitution, the certificate whereof shall be filed in the
28 office of the Secretary of State. A suitable office or offices for the board shall be provided in the
29 buildings of West Virginia University.

30 The board of Governors shall have general control, supervision and management of the
31 business and educational affairs of the university and of Potomac State School, and shall have
32 full authority to employ all officers, teachers, and other employees of such institutions and fix their
33 yearly or monthly salaries.

34 The board of Governors shall meet annually in June at the university in the performance
35 of its duties, and may meet at such other times and places as may be necessary for the best
36 interests of the institutions under its control. Special meetings may be called by the board when
37 in session, or by the president, who shall not succeed himself or herself as president of the board.
38 The board shall at each annual meeting elect one of its members as president and one as vice
39 president of the board, and shall appoint a secretary and fix his or her salary, the same to be paid
40 out of the funds appropriated by the Legislature for the university. The president of the university
41 shall be the chief executive officer of the board. The members of the board shall serve without
42 compensation, but every member shall be reimbursed from the appropriation made by the
43 Legislature for the support of the university for actual expenses incident to the performance of his
44 or her duties, upon presentation of an itemized sworn statement thereof.

45 On October 1, of each year, or as soon thereafter as practicable, the board of Governors
46 shall make to the Governor and to the Legislature a full report concerning the educational

47 institutions under its control and management, together with its recommendations in respect to
48 needed legislation.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-2. Composition of commission; terms and qualifications of members; vacancies; eligibility for reappointment; oath of office; removal from office.

1 (a) The commission is comprised of nine members, all of whom are entitled to vote. The
2 membership of the commission is as follows:

3 (1) The State Superintendent of Schools, ex officio;

4 (2) The chair of the West Virginia Council for Community and Technical College
5 Education, ex officio;

6 (3) Four at-large members who are citizens of the state, appointed by the Governor, by
7 and with the advice and consent of the Senate; and

8 (4) Three at-large members who are designated as higher education representatives,
9 appointed by the Governor, by and with the advice and consent of the Senate; for each of the
10 higher education representatives, the Governor shall choose from recommendations made by
11 any state college and university or exempted school and the Governor may request additional
12 recommendations from state colleges and universities or exempted schools if in the Governor in
13 his or her sole discretion determines that additional recommendations are necessary for
14 appointments to the commission.

15 (b) Each of the at-large members appointed by the Governor shall represent the public
16 interest and shall be committed to the legislative intent and goals set forth in state law and policy.

17 (c) The Governor may not appoint any person to be a member of the commission who is
18 an officer, employee or member of the council or an advisory board of any state college or
19 university or exempted school; an officer or member of any political party executive committee;

20 the holder of any other public office or public employment under the government of this state or
21 any of its political subdivisions; an appointee or employee of any governing board; or an
22 immediate family member of any employee under the jurisdiction of the commission, the council
23 or any governing board.

24 (d) Of the seven, at-large members appointed by the Governor:

25 (1) No more than four may belong to the same political party;

26 (2) At least ~~two~~ three shall be appointed from each congressional district; and

27 (3) Effective July 1, 2008, no more than one member may serve from the same county.

28 (e) The at-large members appointed by the Governor serve overlapping terms of four
29 years.

30 (f) The Governor shall appoint a member to fill any vacancy among the seven at-large
31 members, by and with the advice and consent of the Senate. Any member appointed to fill a
32 vacancy serves for the unexpired term of the vacating member. The Governor shall fill the vacancy
33 within thirty days of the occurrence of the vacancy.

34 (g) An at-large member appointed by the Governor may not serve more than two
35 consecutive terms.

36 (h) Before exercising any authority or performing any duties as a member of the
37 commission, each member shall qualify as such by taking and subscribing to the oath of office
38 prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof
39 shall be filed with the Secretary of State.

40 (i) A member of the commission appointed by the Governor may not be removed from
41 office by the Governor except for official misconduct, incompetence, neglect of duty or gross
42 immorality and then only in the manner prescribed by law for the removal of the state elective
43 officers by the Governor.

**CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS,
AUTHORITIES, COMMISSIONS AND COMPACTS.**

ARTICLE 3. SOLID WASTE MANAGEMENT BOARD.

§22C-3-4. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation, and expenses; director of board.

1 The solid waste management board is a governmental instrumentality of the state and a
2 body corporate. The exercise by the board of the powers conferred on it by this article and the
3 carrying out of its purposes and duties are essential governmental functions and are for a public
4 purpose.

5 The board is composed of seven members. The secretary of the Department of Health
6 and Human Resources and the director of the Division of Environmental Protection, or their
7 designees, are members ex officio of the board. The other five members of the board are
8 appointed by the Governor, by and with the advice and consent of the Senate, for terms of one,
9 two, three, four, and five years, respectively. Two appointees shall be persons having at least
10 three years of professional experience in solid waste management, civil engineering or regional
11 planning and three appointees shall be representatives of the general public. The successor of
12 each such appointed member shall be appointed for a term of five years in the same manner the
13 original appointments were made and so that the representation on the board as set forth in this
14 section is preserved, except that any person appointed to fill a vacancy occurring prior to the
15 expiration of the term for which his or her predecessor was appointed shall be appointed only for
16 the remainder of such term. Each board member serves until the appointment and qualification
17 of his or her successor.

18 ~~No~~ Not more than three of the appointed board members may at any one time be from the
19 same congressional district or belong to the same political party. No appointed board member

20 may be an officer or employee of the United States or this state. Appointed board members may
21 be reappointed to serve additional terms. All members of the board shall be citizens of the state.
22 Each appointed member of the board, before entering upon his or her duties, shall comply with
23 the requirements of §6-1-1 *et seq.*, of this code and give bond in the sum of \$25,000. Appointed
24 members may be removed from the board only for the same causes as elective state officers may
25 be removed.

26 Annually the board shall elect one of its appointed members as chair, another as vice chair
27 and appoint a secretary-treasurer, who need not be a member of the board. Four members of the
28 board are a quorum and the affirmative vote of four members is necessary for any action taken
29 by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum
30 by such vote to exercise all the rights and perform all the duties of the board. The person
31 appointed as secretary-treasurer shall give bond in the sum of \$50,000. If a board member is
32 appointed as secretary-treasurer, he or she shall give bond in the sum of \$25,000 in addition to
33 the bond required in the preceding paragraph.

34 The ex officio members of the board shall not receive any compensation for serving as a
35 board member. Each of the five appointed members of the board shall be paid the same
36 compensation, and each member of the board shall be paid the expense reimbursement, as is
37 paid to members of the Legislature for their interim duties as recommended by the citizens
38 legislative compensation commission and authorized by law for each day or portion thereof
39 engaged in the discharge of official duties. All such compensation and expenses incurred by
40 board members are payable solely from funds of the board or from funds appropriated for such
41 purpose by the Legislature and no liability or obligation shall be incurred by the board beyond the
42 extent to which moneys are available from funds of the board or from such appropriation.

43 The board shall meet at least four times annually and at any time upon the call of its chair
44 or upon the request in writing to the chair of four board members.

45 The board shall appoint a director as its chief executive officer. The director shall have
46 successfully completed an undergraduate education and, in addition, shall have two years of
47 professional experience in solid waste management, civil engineering, public administration or
48 regional planning.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-3b. Indigent Defense Commission.

1 (a) There is hereby established the Indigent Defense Commission to provide assistance
2 to Public Defender Services with regard to the general policies and procedures of the agency,
3 including, but not limited to, the opening, closing, or merging of public defender offices throughout
4 the state and the establishment of performance measures for the qualitative review of indigent
5 defense.

6 (b) In order to demonstrate a collaborative approach to solving criminal justice problems,
7 the commission shall consist of the Executive Director of Public Defender Services, who shall
8 serve as chair, and the following members appointed by the Governor:

9 (1) One former or retired circuit judge;

10 (2) Three lawyers, ~~one~~ at least one of which is from each congressional district, who have
11 significant experience in the defense of criminal cases or have demonstrated a strong
12 commitment to quality representation of indigent defendants;

13 (3) One current chief public defender; and

14 (4) One nonlawyer with a demonstrated commitment to providing legal services to the
15 indigent;

16 (5) One person who is a member of an organization that advocates on behalf of people
17 with mental illness and developmental disabilities; and

18 (6) One attorney with significant experience in the defense of juvenile delinquency and
19 abuse and neglect cases.

20 (c) The commission shall meet at the times and places specified by the call of the chair:
21 *Provided*, That the commission shall meet no less than four times each year. Members shall serve
22 without compensation but may receive reimbursement of actual and necessary expenses for each
23 day or portion thereof engaged in this discharge of official duties in a manner consistent with the
24 guidelines of the Travel Management Office of the Department of Administration.

25 (d) Of the initial appointments made to the commission, two shall be for a term ending one
26 year after the effective date of this section, two for a term ending two years after the effective date
27 of this section, two for a term ending three years after the effective date of this section. Thereafter,
28 terms of office shall be for four years, each term ending on the same day of the same month of
29 the year as did the term which it succeeds. Each member shall hold office from the date of his or
30 her appointment until the end of the term for which he or she was appointed or until his or her
31 successor qualifies for office. When a vacancy occurs as a result of death, resignation, or removal
32 in the membership of this commission, it shall be filled by appointment within 30 days of the
33 vacancy for the unexpired portion of the term in the same manner as original appointments. No
34 member shall serve more than two consecutive full or partial terms and no person may be
35 reappointed to the commission until at least two years have elapsed after the completion of a
36 second successive term.

37 (e) The appointed members of the commission serve four year terms that shall coincide
38 with the term of the Governor.

39 (f) The commission has the following powers and duties:

40 (1) To develop standards regarding the qualifications and training for public defenders,
41 assistant public defenders and staff;

42 (2) To explore opportunities related to the training of appointed panel attorneys;

43 (3) To evaluate, on an annual basis, the compensation and caseloads of public defenders
44 and appointed panel attorneys;

45 (4) To develop standards for providing and compensating expert witnesses, investigators
46 and other persons who provide services related to legal representation under this article;

47 (5) To study, monitor, and evaluate existing standards for determining eligibility for legal
48 representation under section sixteen of this article;

49 (6) To study the feasibility and need of creating additional public defender corporations,
50 the activation of public defender corporations and the formation of multicircuit or regional public
51 defender corporations in accordance with the provisions of section eight of this article;

52 (7) To study the potential for the dissolution of public defender corporations;

53 (8) To study, monitor, evaluate, and make recommendations regarding the training,
54 experience, and background necessary for a public defender or panel attorney to competently
55 represent indigent defendants in capital cases; and

56 (9) To monitor and make recommendations regarding the following activities of the board
57 of directors of each public defender corporation receiving funding pursuant to this article:

58 (A) The appointment of the public defender and any assistant public defenders pursuant
59 to subdivision (1), subsection (c), section fifteen of this article;

60 (B) The fixing of professional and clerical salaries pursuant to subdivision (2), subsection
61 (c), section fifteen of this article; and

62 (C) The removal of any public defender, assistant public defender or other employee for
63 misfeasance, malfeasance, or nonfeasance pursuant to subdivision (3), subsection (c), section
64 fifteen of this article.

65 ~~(g) On or before January 15, 2009 the commission shall report to the Legislature its~~
66 ~~findings and recommendations on the feasibility and need for the creation of additional public~~
67 ~~defender corporations; the activation of public defender corporations; the formation of multicircuit~~

68 ~~or regional public defender corporations; or the dissolution of public defender corporations in~~
69 ~~accordance with the provisions of section eight of this article~~

ARTICLE 22. STATE LOTTERY ACT.

§29-22-4. State Lottery Commission created; composition; qualifications; appointment; terms of office; chairman's removal; vacancies; compensation and expenses; quorum; oath and bond.

1 (a) There is hereby created a state Lottery Commission which shall consist of seven
2 members, all residents and citizens of the state, one who shall be a lawyer, one who shall be a
3 certified public accountant, one who shall be a computer expert, one who shall have not less than
4 five years experience in law enforcement and one who shall be qualified by experience and
5 training in the field of marketing. The two remaining members shall be representative of the public
6 at large. The commission shall carry on a continuous study and investigation of the lottery
7 throughout the state and advise and assist the director of the state lottery. The commission
8 members shall be appointed by the Governor, by and with the advice and consent of the Senate,
9 no later than July 1, 1985. The terms of members first appointed expire as designated by the
10 Governor at the time of appointment: One at the end of one year; two at the end of two years; one
11 at the end of three years; two at the end of four years; and one at the end of five years. ~~Upon the~~
12 ~~effective date of this section, as~~ As vacancies occur, appointments to fill vacancies shall be made
13 so that at least ~~two~~ three members are appointed from each congressional district. ~~existing as of~~
14 ~~January 1, 1993~~ No more than four members of such commission shall belong to the same
15 political party. Members serve overlapping terms of five years and are eligible for successive
16 appointments to the commission. On July 1, of each year, the commission shall select a chairman
17 from its membership. The Governor may remove any commission member for cause,
18 notwithstanding the provisions of §6-6-4 of this code. Vacancies shall be filled in the same manner
19 as the original appointment but only for the remainder of the term. No person convicted of a felony

20 ~~or crime involving moral turpitude~~ shall be eligible for appointment nor appointed as a
21 commissioner.

22 (b) The board shall pay each member the same compensation as is paid to members of
23 the Legislature for their interim duties as recommended by the citizens legislative compensation
24 commission and authorized by law for each day or portion thereof engaged in the discharge of
25 official duties and shall reimburse each member for actual and necessary expenses incurred in
26 the discharge of official duties: *Provided*, That the per mile rate to be reimbursed shall be the
27 same rate as authorized for members of the Legislature. All such payments shall be made from
28 the state Lottery Fund.

29 (c) At least one meeting per month shall be held by the commission. Additional meetings
30 may be held at the call of the chairman, director, or majority of the commission members.

31 (d) A majority of the members constitutes a quorum for the transaction of business, and
32 all actions require a majority vote of the members present.

33 (e) Before entering upon the discharge of the duties as commissioner, each commissioner
34 shall take and subscribe to the oath of office prescribed in section five, article IV of the Constitution
35 of West Virginia and shall enter into a bond in the penal sum of \$100,000 with a corporate surety
36 authorized to engage in business in this state, conditioned upon the faithful discharge and
37 performance of the duties of the office. The executed oath and bond shall be filed in the office of
38 the Secretary of State.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 38. THE REAL ESTATE APPRAISER LICENSING AND CERTIFICATION ACT.

**§30-38-6. Board created; appointments, qualifications, terms, oath, removal of members;
quorum; meetings; disqualification from participation; compensation; records;
employing staff.**

1 (a) The West Virginia real estate appraiser licensing and certification board, which consists
2 of nine members appointed by the Governor with the advice and consent of the Senate, is
3 continued.

4 (1) Each member shall be a resident of the State of West Virginia, except the appraisal
5 management company representative is not required to be a resident of West Virginia.

6 (2) Four members shall be certified real estate appraisers having at least five years'
7 experience in appraisal as a principal line of work immediately preceding their appointment, and
8 shall remain certified real estate appraisers throughout their terms.

9 (3) Two members shall have at least five years' experience in real estate lending as
10 employees of financial institutions.

11 (4) Two members may not be engaged in the practice of real estate appraisal, real estate
12 brokerage or sales, or have any financial interest in these practices.

13 (5) One member shall be a representative from an appraisal management company
14 registered under the provisions of §30-38A-1 *et seq.* of this code.

15 (6) No member of the board may concurrently be a member of the West Virginia Real
16 Estate Commission.

17 (7) Not more than ~~two~~ three appraiser members may be appointed from ~~each a~~ a
18 congressional district.

19 (b) Members will be appointed for three year terms, which are staggered in accordance
20 with the initial appointments under prior enactment of this act.

21 (1) No member may serve for more than three consecutive terms.

22 (2) Before entering upon the performance of his or her duties, each member shall
23 subscribe to the oath required by section five, article IV of the constitution of this state.

24 (3) The Governor shall, within 60 days following the occurrence of a vacancy on the board,
25 fill the vacancy by appointing a person who meets the requirements of this section for the
26 unexpired term.

27 (4) Any member may be removed by the Governor in case of incompetency, neglect of
28 duty, gross immorality, or malfeasance in office.

29 (c) The board shall elect a chairman.

30 (d) A majority of the members of the board constitutes a quorum.

31 (e) The board shall meet at least once in each calendar quarter on a date fixed by the
32 board.

33 (1) The board may, upon its own motion, or shall upon the written request of three
34 members of the board, call additional meetings of the board upon at least 24 hours' notice.

35 (2) No member may participate in a proceeding before the board to which a corporation,
36 partnership, or unincorporated association is a party, and of which he or she is or was at any time
37 in the preceding 12 months a director, officer, owner, partner, employee, member, or stockholder.

38 (3) A member may disqualify himself or herself from participation in a proceeding for any
39 other cause the member considers sufficient.

40 (f) The appointed members will receive compensation and expense reimbursement in
41 accordance with the provisions of §30-1-11 of this code.

42 (g) The board may employ staff as necessary to perform the functions of the board, to be
43 paid out of the board fund created by the provisions of this article. Persons employed by any real
44 estate agent, broker, appraiser, or lender, or by any partnership, corporation, association, or
45 group engaged in any real estate business, may not be employed by the board. The board may
46 hire a licensed or certified appraiser whose license status is inactive or who is not employed by
47 any of the prohibited employers listed.

ARTICLE 42. WEST VIRGINIA CONTRACTOR LICENSING ACT.

**§30-42-4. West Virginia contractor licensing board created; members; appointment; terms;
vacancies; qualifications; quorum.**

1 (a) The West Virginia Contractor Licensing Board is continued. The board shall consist of
2 10 members appointed by the Governor by and with the advice and consent of the Senate for
3 terms of four years. The members shall serve until their successors are appointed and have been
4 qualified. Eight of the appointed members shall be owners of businesses engaged in the various
5 contracting industries, with at least one member appointed from each of the following contractor
6 classes: One electrical contractor; one general building contractor; one general engineering
7 contractor; one heating, ventilating and cooling contractor; one multifamily contractor; one piping
8 contractor; one plumbing contractor; and one residential contractor, as defined in §30-42-3 of this
9 code. Two of the appointed members shall be building code officials who are not members of any
10 contracting industry. At least ~~three~~ four members of the board shall reside, at the time of their
11 appointment, in each congressional district as existing on ~~January 1, 2018~~ January 1, 2023. The
12 Secretary of the Department of Tax and Revenue or his or her designee, and the Commissioner
13 of WorkForce West Virginia or his or her designee shall be ex-officio nonvoting members of the
14 board.

15 (b) Terms of the members first appointed shall be two members for one year, two members
16 for two years, three members for three years, and three members for four years, as designated
17 by the Governor at the time of appointment. Thereafter, terms shall be for four years. A member
18 who has served all or part of two consecutive terms shall not be subject to reappointment unless
19 four years have elapsed since the member last served. Vacancies shall be filled by appointment
20 by the Governor for the unexpired term of any member whose office is vacant and shall be made
21 within 60 days of the occurrence of the vacancy. A vacancy on the board shall not impair the right
22 of the remaining members to exercise all the powers of the board.

23 (c) The board shall elect a chair from one of the voting members of the board. The board
24 shall meet at least once annually and at such other times as called by the chair or a majority of
25 the board. Board members shall receive compensation not to exceed the amount paid to
26 members of the Legislature for the interim duties as recommended by the Citizens Legislative

27 Compensation Commission and authorized by law for each day or portion of a day spent attending
28 meetings of the board and shall be reimbursed for all reasonable and necessary expenses
29 incurred incident to his or her duties as a member of the board. A majority of the members
30 appointed shall constitute a quorum of the board.

NOTE: The purpose of this bill is to adjust the qualifications for members of boards, commissions, and other entities. The bill reduces the number of members of board of directors of nonprofit corporation operating and maintaining Clay Center for the Arts. The bill revises qualifications for members of Human Rights Commission. The bill establishes qualifications for members of Records Management and Preservation Board. The bill revises qualifications for membership on Tourism Advisory Council. The bill updates number of members of Public Employees Grievance Board who may be appointed from each congressional district; revising number of members of Neighborhood Investment Program Advisory Board from each congressional district; revising number of members of Emergency Medical Services Advisory Council appointed from any one congressional district; revising membership of Complete Streets Advisory Board; establishing number of appointed members of Parkways Authority and recognizing reduction in number of congressional districts; establishing qualifications for appointed members of Public Transit Advisory Council; revising qualifications for appointment to West Virginia Board of Education; revising requirements for appointed members of Board of Governors; Altering composition of Higher Education Policy Commission; making technical changes to qualifications for appointment to Solid Waste Management Board; modifying membership of Indigent Defense Commission; providing for qualifications for appointment to State Lottery Commission; revising qualifications for appointment to Real Estate Appraiser Licensing and Certification Board; and revising qualifications for appointment to Contractor Licensing Board.

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