

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4020

BY DELEGATES ROHRBACH, ZUKOFF, HONAKER, WALKER,

GRIFFITH, MILLER AND FORSHT

[Originating in the Committee on Finance; reported on

February 25, 2022]

1 A BILL to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended, and to
2 amend and reenact §5F-2-1 of said code; all relating to reorganizing the Department of
3 Health and Human Resources; separating the Department of Health and Human
4 Resources into two departments; creating the Department of Health; creating the
5 Department of Human Resources; establishing the organizational structure of the
6 Department of Health; and establishing the organizational structure of the Department of
7 Human Services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-2. Executive departments created; offices of secretary created.

1 (a) There are created, within the executive branch of the state government, the following
2 departments:

3 (1) Department of Administration;

4 (2) Department of Environmental Protection;

5 (3) ~~Department of Health and Human Resources;~~ Department of Health;

6 (4) Department of Homeland Security;

7 (5) Department of Revenue;

8 (6) Department of Transportation;

9 (7) Department of Commerce;

10 (8) Department of Veterans' Assistance;

11 (9) Department of Economic Development; ~~and~~

12 (10) Department of Tourism; and

13 (11) Department of Human Resources.

14 (b) Each department will be headed by a secretary appointed by the Governor with the
15 advice and consent of the Senate. Each secretary serves at the will and pleasure of the Governor.

16 (c) The changes made to this section during the 2022 regular legislative session become
17 effective on July 1, 2023.

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

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

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

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

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development; and

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

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

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

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

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

51 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
52 continued as a separate independent agency within the Executive Branch as the Department of
53 Arts, Culture, and History. All references throughout this code to the “Division of Culture and
54 History” means the “Department of Arts, Culture, and History”.

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

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

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

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

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

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

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

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

66 (h) Notwithstanding any other provision of code, effective July 1, 2023, the following
67 agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds
68 associated with any agency or board, are incorporated in and administered as a part of the
69 Department of ~~Health and Human Resources~~:

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

71 (2) ~~Bureau for Public Health provided in §16-1-1 *et seq.* of this code;~~ Bureau of Social
72 Services;

73 ~~(3) Office of Emergency Medical Services and the Emergency Medical Service Advisory~~
74 ~~Council provided in §16-4C-1 et seq. of this code; (2) Bureau of Medical Services;~~
75 ~~(4) Health Care Authority provided in §16-29B et seq. of this code;~~
76 ~~(5) State Commission on Intellectual Disability provided in §29-15-1 et seq. of this code;~~
77 ~~(6) Women's Commission provided in §29-20-1 et seq. of this code; and~~
78 ~~(7) (3) Bureau for Child Support Enforcement provided in §48-1-1 et seq. of this code;~~
79 ~~(4) Bureau of Family Assistance; and~~
80 ~~(5) Bureau of Behavioral Health;~~
81 ~~(A) Office of Drug Control Policy;~~
82 ~~(B) Office of Maternal Child & Family Health.~~
83 (i) (1) Notwithstanding any other provision of code, effective July 1, 2023, the following
84 agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds
85 associated with any agency or board, are incorporated in and administered as a part of the
86 Department of Health:
87 (A) Bureau for Public Health:
88 (i) Office of Emergency Medical Services and the Emergency Medical Service Advisory
89 Council provided in §16-4C-1 et seq. of this code;
90 (ii) Office of the Chief Medical Examiner.
91 (B) Bureau for Health Facilities;
92 (C) Bureau of the Inspector General;
93 (D) Office of Health Facility Licensure and Certification;
94 (E) Health Care Authority;
95 (2) If a bureau, office, board, commission or other state entity is not specifically organized
96 in this subsection or subsection (h), the secretaries shall decide where the entity shall be placed
97 within the organizational chart and provide a copy of the organizational chart to the Legislative
98 Commission on Health and Human Resources Accountability by August 1, 2023.

99 (i) 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 Homeland Security:

102 (1) West Virginia State Police;

103 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and
104 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That
105 notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule
106 promulgated thereunder, a reference is made to the Division of Homeland Security and
107 Emergency Management, it shall be construed to mean the Division of Emergency Management;

108 (3) Division of Administrative Services;

109 (4) Division of Corrections and Rehabilitation;

110 (5) Fire Commission;

111 (6) The State Fire Marshal;

112 (7) Board of Probation and Parole;

113 (8) The West Virginia Fusion Center;

114 (9) The Division of Protective Services; and

115 (10) Any other agency or entity hereinafter established within the Department of Homeland
116 Security by an act of the Legislature.

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

120 (1) Tax Division provided in chapter 11 of this code;

121 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;

122 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;

123 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

124 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
125 this code and §60-2-1 *et seq.* of this code;

126 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

127 (7) Lending and Credit Rate Board provided in chapter 47A of this code;

128 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

150 (n) Except for powers, authority, and duties that have been delegated to the secretaries
151 of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards
152 and the membership, terms, and qualifications of members of the boards are not affected by the
153 enactment of this chapter. All boards that are appellate bodies or are independent decision
154 makers may not have their appellate or independent decision-making status affected by the
155 enactment of this chapter.

156 (o) Any department previously transferred to and incorporated in a department by prior
157 enactment of this section means a division of the appropriate department. Wherever reference is
158 made to any department transferred to and incorporated in a department created in §5F-1-2 of
159 this code, the reference means a division of the appropriate department and any reference to a
160 division of a department so transferred and incorporated means a section of the appropriate
161 division of the department.

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

169 (q) The Department of Economic Development as established in §5B-2-1 *et seq.* of this
170 code is continued as a separate independent agency within the Executive Branch.

171 (r) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued
172 as a separate independent agency within the Executive Branch.