

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4504

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

[BY REQUEST OF THE EXECUTIVE]

Introduced February 02, 2022; Referred to the
Committee on Government Organization]

1 A BILL to repeal §10-1-12, §10-1-13, §10-1-14, §10-1-14a, §10-1-15, §10-1-16, §10-1-17, §10-1-
 2 18, §10-1-18a, §10-1-19, §10-1-20, §10-1-21, §10-1-22, §10-1-23, and §10-1-24 of the
 3 Code of West Virginia, 1931, as amended; and to repeal §29-27-1, §29-27-2, §29-27-3,
 4 §29-27-4, §29-27-5, and §29-27-6 of said code; and to amend and reenact §5F-2-1 of said
 5 code; to amend and reenact §29-1-1 of said code; and to amend said code by adding
 6 thereto two new sections, designated §29-1-8c and §29-1-8d, all relating to placing the
 7 duties and functions of certain boards and commissions under the Department of Arts,
 8 Culture and History; to repeal certain sections related to the powers and authorities of the
 9 State Library Commission; to create a state library section in the Department of Arts,
 10 Culture and History; to amend the makeup of the State Library Advisory Commission; to
 11 provide for a state library director; to provide powers and duties of the state library section;
 12 to provide powers and duties of the State Library Advisory Commission; to create the
 13 National Coal Heritage Area Commission; to provide for the makeup of the National Coal
 14 Heritage Area Commission; setting forth the powers and duties of the National Coal
 15 Heritage Area Commission; to repeal the article related to the National Coal Heritage Area
 16 Authority.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-1. Transfer and incorporation of agencies and boards; funds.

1 (a) The following agencies and boards, including all of the allied, advisory, affiliated, or
 2 related entities and funds associated with any agency or board, are incorporated in and
 3 administered as a part of the Department of Administration:

4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;

5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (3) 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~~ is continued as a separate independent agency
50 within the Department of Arts, Culture, and History, which shall provide administrative support for
51 ~~both entities~~ the authority.

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

56 (g) The following agencies and boards, including all of the allied, advisory, and affiliated

57 entities, are transferred to the Department of Environmental Protection for purposes of
58 administrative support and liaison with the Office of the Governor:

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

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

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

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

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

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

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

67 (h) The following agencies and boards, including all of the allied, advisory, affiliated, or
68 related entities and funds associated with any agency or board, are incorporated in and
69 administered as a part of the 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;

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

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

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

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

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

78 (i) The following agencies and boards, including all of the allied, advisory, affiliated, or
79 related entities and funds associated with any agency or board, are incorporated in and
80 administered as a part of the Department of Homeland Security:

81 (1) West Virginia State Police;

82 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and

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

87 (3) Division of Administrative Services;

88 (4) Division of Corrections and Rehabilitation;

89 (5) Fire Commission;

90 (6) The State Fire Marshal;

91 (7) Board of Probation and Parole;

92 (8) The West Virginia Fusion Center;

93 (9) The Division of Protective Services; and

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

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

99 (1) Tax Division provided in Chapter 11 of this code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

134 (o) Any department previously transferred to and incorporated in a department by prior

135 enactment of this section means a division of the appropriate department. Wherever reference is
 136 made to any department transferred to and incorporated in a department created in §5F-1-2 of
 137 this code, the reference means a division of the appropriate department and any reference to a
 138 division of a department so transferred and incorporated means a section of the appropriate
 139 division of the department.

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

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

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

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC
 ESTABLISHMENTS; MONUMENTS AND MEMORIALS; ROSTER OF
 SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY.**

ARTICLE 1. PUBLIC LIBRARIES.

§10-1-12. State Library Commission.

1 [Repealed.]

§10-1-13. State Library Commission – officers.

2 [Repealed.]

§10-1-14. Same. – Powers and duties.

3 [Repealed.]

§10-1-14a. West Virginia Program for Open Education Resources; material description.

4 [Repealed.]

§10-1-15. State Library Commission – Disposition of monetary gifts.

5 [Repealed.]

§10-1-16. Regional libraries and library areas – Establishment and location.

6 [Repealed.]

§10-1-17. Regional libraries and library areas – Referral of plan to county courts; action on; alteration of plan.

7 [Repealed.]

§10-1-18. Regional libraries and library areas –Powers of West Virginia Library Commission.

8 [Repealed.]

§10-1-18a. Establishment of state publications; designation clearinghouse; definitions; powers of West Virginia Library Commission; designations by state agencies.

9 [Repealed.]

§10-1-19. Regional libraries and library areas – Transfer of certain libraries to Library Commission.

10 [Repealed.]

§10-1-20. Aid to libraries by library Commission.

11 [Repealed.]

§10-1-21. Collection of and preservation of library data; surveys; employment of personnel; use of data.

12 [Repealed.]

§10-1-22. Confidential nature of certain library records.

13 [Repealed.]

§10-1-23. Library Survey; status report; and ten-year plan.

14 [Repealed.]

§10-1-24. Library Facilities Improvement Fund.

15 [Repealed.]

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

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

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

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

- 10 (1) The arts section;
- 11 (2) The archives and history section;
- 12 (3) The museums section;
- 13 (4) The historic preservation section; ~~and~~
- 14 (5) The state library section;
- 15 (6) The National Coal Heritage Commission; and
- 16 (7) The administrative section.

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

18 (1) A Commission on the Arts; and

19 (2) A Commission on Archives and History.

20 (d) The curator shall exercise control and supervision of the department and shall be
21 responsible for the projects, programs, and actions of each of its sections. The purpose and duty
22 of the department is to advance, foster and promote the creative and performing arts and crafts,
23 including both indoor and outdoor exhibits and performances; to advance, foster, promote,
24 identify, register, acquire, mark and care for historical, prehistorical, archaeological and significant
25 architectural sites, structures and objects in the state; to encourage the promotion, preservation
26 and development of significant sites, structures and objects through the use of economic
27 development activities such as loans, subsidies, grants and other incentives; to coordinate all
28 cultural, historical and artistic activities in state government and at state-owned facilities; to
29 acquire, preserve and classify books, documents, records and memorabilia of historical interest
30 or importance; and, in general, to do all things necessary or convenient to preserve and advance
31 the arts, humanities, culture and history of the state. In the furtherance of these purposes and
32 duties, the curator shall report directly to the Governor as a curator for both the intrinsic and
33 extrinsic value for individuals, communities and the economy of the arts, humanities, culture, and
34 history in West Virginia. As such, the curator shall represent the Department of Arts, Culture and
35 History as a full participating member in meetings of the secretaries of the departments created
36 in §5F-1-2 of this code that are convened at the call of the Governor.

37 (e) The department shall have jurisdiction and control and may set and collect fees for the
38 use of all space in the building presently known as the West Virginia Science and Culture Center,
39 including the deck and courtyards forming an integral part thereof; the building presently known
40 as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances
41 thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14 of this code; and
42 any other sites as may be transferred to or acquired by the department. Notwithstanding any
43 provision of this code to the contrary, ~~including the provisions of §5B-1-1 et seq. of this code,~~

44 beginning on and after July 1, 2018, the department shall have responsibility for, and control of,
45 all visitor touring and visitor tour guide activities within the state Capitol Building at Charleston.

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

51 (g) Nothing in this article or any other provision of this code may be construed to mean
52 that the Department of Arts, Culture and History is an executive department created pursuant to
53 §5F-1-2 of this code, nor that the curator is the secretary of an executive department created
54 pursuant to that section.

§29-1-8c. State Library Section.

1 (a) There is hereby created a West Virginia State Library Section under the Department
2 of Arts, Culture and History

3 (b) The State Library Commission is continued as an advisory council to support the West
4 Virginia State Library Section, and shall consist of the Curator of the West Virginia Department of
5 Arts, Culture and History as an ex officio voting member and six voting members.

6 (1) The Governor shall appoint, by and with the advice and consent of the Senate, the
7 voting members of the commission each for a term of four years.

8 (i) No more than three members may reside in the same congressional district.

9 (ii) At least three appointed members of the commission shall be women and at least three
10 appointed members shall be men.

11 (2) No member of the State Library Commission may receive compensation for services
12 rendered, nor be engaged or interested in the publishing business.

13 (3) On or before the expiration of the terms for which the members are appointed, the
14 Governor shall appoint their successors.

15 (b) The Curator of the Department of Arts, Culture and History shall appoint a library
16 director, with the advice and consent of the State Library Commission, to carry out the duties and
17 functions of the State Library Section outlined in this section through the Department of Arts,
18 Culture and History library section. The library director shall also serve as the Secretary of the
19 State Library Commission.

20 (c) The State Library Commission shall advise the commissioner and the library director
21 on carrying out certain duties and functions of the State Library Commission, as provided in this
22 section.

23 (d) General Authority of the State Library Section.

24 (1) The State Library Section shall provide assistance, advice, and counsel to all school,
25 state-institutional, free and public libraries, and to all communities in the state which may propose
26 to establish libraries, as to the best means of establishing and administering them, selecting and
27 cataloging books, and other details of library management, and may send any of its members to
28 aid in organizing such libraries or assist in the improvement of those already established.

29 (2) The State Library Section may:

30 (i) Receive gifts of money, books, or other property which may be used or held for the
31 purpose or purposes given; and may purchase and operate traveling libraries under such
32 conditions and rules as the commission deems necessary to protect the interests of the state and
33 best increase the efficiency of the service it is expected to render the public.

34 (ii) Purchase suitable books for traveling libraries and distribute them as needed to those
35 persons and places in the state without adequate public library service.

36 (iii) Collect books and other suitable library matter and distribute the same among state
37 institutions desiring the same.

38 (iv) Issue and offer for sale printed material, such as lists and circulars of information, and
39 in the publication thereof may cooperate with other state Library Commissions and libraries, in
40 order to secure the more economical administration of the work for which it was formed.

41 (v) Conduct courses of library instruction and hold librarians' institutes in various parts of
42 the state.

43 (e) West Virginia Program for Open Education Resources; material description.

44 (1) The State Library Section shall establish and maintain the West Virginia Program for
45 Open Education Resources to encourage and facilitate the use of open education resource
46 materials in both higher education and kindergarten through 12th grade in West Virginia schools.

47 (2) "Open education resource materials" means teaching, learning and resource materials
48 in any medium, digital or otherwise, that reside in the public domain or have been released under
49 an open license that permits low-cost access, use, adaptation and redistribution by others with no
50 or limited restrictions.

51 (3) The State Library Commission, in consultation with the Higher Education Policy
52 Commission, the West Virginia Council for Community and Technical College Education, and the
53 State Superintendent of Schools, or his or her designee, shall:

54 (i) Ascertain what institutions or faculty are currently using open education resource
55 material.

56 (ii) Identify material currently associated with core general education courses and readily
57 available for use by faculty and institutions;

58 (iii) Identify any statutory or other impediments which interfere with selection and use of
59 open education resource materials by administrators or teachers at all levels of instruction in West
60 Virginia schools;

61 (iv) Identify sources of potential grants for funding for teachers and institutions to use open
62 education resource materials for classes and courses, and propose a competitive application
63 system to award grant funding for those faculty and institutions seeking to use the open education
64 resource materials;

65 (v) Establish a digital clearing house that will function as a publicly accessible database
66 for open education resource material;

67 (vi) Develop strategies to leverage further open education resource material to benefit
68 higher education institutions and school systems, as well as private and foundation support for
69 the project; and

70 (vii) Report no later than July 1 of each year the program's findings, progress and
71 recommendations to the State Library Section, the Governor, and the chairs of the Legislature's
72 House and Senate Committees on Education.

73 (f) State Library Section -- Disposition of monetary gifts.

74 (1) If any sums of money are received by the State Library Section as gifts, they shall be
75 paid into the State Treasury and used exclusively for carrying out the provisions of this section,
76 and paying expenses of the State Library Section and the State Library Commission.

77 (2) The State Library Section shall expend no sums unless they are available by gift,
78 appropriation, or otherwise.

79 (g) Regional libraries and library areas -- Establishment and location.

80 (1) The State Library Commission is hereby authorized to develop a plan for the
81 establishment and location of regional libraries, and library areas throughout the state, based on
82 a detailed survey to be made by the State Library Commission, of the needs of the various
83 localities of the state. A region shall include two or more counties.

84 (2) On completion of such survey of any proposed region, the State Library Commission
85 shall report their findings to the State Library Section and the state library director, who may refer
86 the proposal to the county commissions or councils of all the counties included in such proposed
87 region. The county commissions or councils may act upon such proposal by resolution, and the
88 votes of a majority of each of the county commissions or councils of the counties included in the
89 proposed region shall be necessary for the adoption of such proposal. The proposal may be
90 amended and resubmitted as necessary.

91 (3) The West Virginia Library Section may, with advice and input from the State Library
92 Commission, and as the state library director may consider necessary or beneficial:

93 (i) Establish, maintain, and operate a public library for the region;

94 (ii) Appoint a librarian and the necessary assistants, and to fix their compensation, such
95 appointments to be based upon merit and efficiency as determined by the state library director.

96 The librarian shall hold a certificate from an approved school of library science and shall have had
97 not less than three years of practical experience in library work. The state library director may
98 also remove said librarian and other assistants;

99 (iii) Purchase books, periodicals, equipment, and supplies;

100 (iv) Purchase sites and erect buildings, and/or to lease suitable quarters, and to have
101 supervision and control of said property;

102 (v) Borrow books from and lend books to other libraries;

103 (vi) Enter into contracts to receive service from or give service to libraries within or without
104 the region and to give service to municipalities without the region which have no libraries, or to
105 cooperate with and aid generally without such contracts, public school, institutional and other
106 libraries;

107 (vii) Make such bylaws, rules, and regulations not inconsistent with this article as may be
108 expedient for the government of regional library areas and the regional libraries therein, and for
109 the purpose of carrying out the provisions of this article;

110 (viii) Accept for the State of West Virginia any appropriations of money that may hereafter
111 be made out of the federal treasury by an act or Acts of Congress and to disburse such funds for
112 the purpose of carrying out the provisions of this article, in accordance with §18-10-11, §18-10-
113 11, and §18-10-2 of this code.

114 (h) *Establishment of state publications clearinghouse; definitions; powers of State Library*
115 *Section; designations by state agencies.*

116 (1) There is hereby continued the state depository library clearinghouse which shall be
117 under the direction of the State Library Section.

118 (2) As used in this section, the following terms have the following meanings:

119 “Public document” means any document, report, directive, bibliography, rule, newsletter,
120 pamphlet, brochure, periodical, request for proposal, or other publication, whether in print or an
121 unprinted format, that is paid for, in whole or in part, by funds appropriated by the Legislature and
122 may be subject to distribution to the public;

123 “Depository library” means a library designated to collect, catalog, maintain and make
124 available all or particular selected state publications to the general public; and

125 “State agency” means any state office, whether legislative, executive, or judicial, including,
126 but not limited to, any Constitutional officer, department, division, bureau, board, commission or
127 other agency which expends state appropriated funds.

128 (3) The State Library Section shall establish a state depository library clearinghouse to
129 receive and distribute all state public documents to the depository libraries around the state.

130 (4) The state library director shall designate a state library staff member as director of the
131 state publications clearinghouse for librarians, which may be in addition to any other duties. The
132 clearinghouse director shall hold a graduate degree in library science from an accredited
133 institution of higher learning. The clearinghouse shall establish requirements for eligibility to
134 become and remain a depository library.

135 (5) In designating a library as a depository library, the clearinghouse shall consider the
136 geography of the state and the existing federal depository libraries. West Virginia University
137 library, Marshall University library and the state department of archives shall be designated as
138 complete depository libraries that shall receive two copies of all public documents. The
139 clearinghouse shall also, pursuant to the requirements it establishes hereunder, designate other
140 libraries around the state as depository libraries, upon request from a library.

141 (6) Each state agency shall designate one person as its documents officer while notifying
142 the clearinghouse of his or her identity. The documents officer shall, prior to the public release of
143 any state public document, deposit with the clearinghouse a minimum of 15 copies as required to
144 meet the needs of the depository library system. If fewer than 40 copies of a public document are

145 produced, no more than two such copies are required to be deposited with the clearinghouse.

146 (i) Aid to libraries by State Library Section.

147 (1) The State Library Section may render such aid and assistance, financial, advisory
148 and/or otherwise, to public, school, county, or regional libraries, whether established or
149 maintained by the State Library Section or not, under such conditions and rules and regulations
150 as the State Library Section may determine necessary to further the interests of the state and
151 best increase the efficiency of the service it is expected to render the public.

152 (2) The State Library Commission may review and analyze the status of libraries across
153 the state and advise the State Library Section on projects and libraries that it has determined that
154 the development and support of those libraries will further the education of the people of the state
155 as a whole and will thereby aid in the discharge of the responsibility of the state to encourage and
156 foster education, the West Virginia Library Section may pay over and contribute to any board of
157 library directors created and maintained pursuant to the provisions of this section or any special
158 act of the Legislature such sum or sums of money as may be available from funds included in
159 appropriations made for the State Library Section for that purpose.

160 (k) Collection and preservation of library data; surveys; employment of personnel; use of
161 data.

162 (1) The West Virginia Library Section may collect and preserve statistics and other data,
163 concerning libraries of any sort located within this state; to make surveys relating to the needs or
164 conditions of such libraries or the library conditions of any city, town, county, regional library area,
165 or other subdivision of this state; and to publish the results and findings thereof in accordance
166 with the provisions of section fourteen of this article.

167 (2) The State Library Section may employ necessary personnel for any of these purposes.

168 (3) Such data, surveys and findings of the State Library Section shall be available to all
169 school, public, institutional, regional and/or other libraries within this state, whether proposed or
170 established.

171 (l) Confidential nature of certain library records.

172 (1) Circulation and similar records of any public library in this state which identify the user
173 of library materials are not public records but shall be confidential and may not be disclosed
174 except:

175 (i) To members of the library staff in the ordinary course of business, including paid
176 employees and unpaid volunteers upon completing a written confidentiality agreement which shall
177 prevent disclosure of circulation records, personal information, and similar records of any public
178 library except to the extent allowed under this subsection and obtaining written permission from
179 the library director of the library system wherein he or she will be working;

180 (ii) Upon written consent of the user of the library materials or the user's parents or
181 guardian if the user is a minor or ward; or

182 (iii) Upon appropriate court order or subpoena.

183 (2) Any disclosure authorized by subsection (1) of this subsection, or any unauthorized
184 disclosure of materials made confidential by that subsection (1) does not in any way destroy the
185 confidential nature of that material, except for the purpose for which an authorized disclosure is
186 made. A person disclosing material as authorized by subsection (1) of this subsection is not liable
187 therefor.

188 (m) Library Survey; status report; and 10-year plan.

189 (1) The State Library Commission shall survey the libraries of the state, in consultation
190 with each library and other interested parties, in order for the State Library Commission to develop
191 a status report on the conditions and needs of the libraries in this state, and to prepare a 10-year
192 plan for construction and maintenance needs of public libraries: *Provided*, That the State Library
193 Commission may use information that it has already compiled that it would otherwise be required
194 to survey pursuant to this subsection.

195 (2) The State Library Commission shall post a digital copy of the report, as required by
196 this section, on the State Library Section website to be made available to the public.

197 (n) Library Facilities Improvement Fund.

198 (1) There is continued in the State Treasury a special fund known as the "Library Facilities
199 Fund". Expenditures from the fund shall be for the purposes set forth in this section. The fund
200 shall be administered by the State Library Section.

201 (2) The fund shall consist of moneys received from the following sources:

202 (i) All appropriations made by the Legislature to the fund;

203 (ii) Any moneys available from sources outside the State Library Section;

204 (iii) Repayment of loans made by the State Library Section pursuant to this section; and

205 (iv) All interest and other income earned from investment of moneys in the fund.

206 (3) The State Library Section shall utilize moneys in the fund to support public library
207 facilities construction, renovation, maintenance, and improvement projects. The State Library
208 Section shall evaluate potential recipient projects of funds from the fund on a competitive basis.

209 (i) The State Library Section may provide loans to public libraries to support energy
210 savings and critical maintenance projects with moneys in the fund.

211 (ii) With the exception of loans made under this section, the State Library Section may not
212 expend any money from the fund toward a particular project unless the proposed expenditure is
213 matched on a dollar-for-dollar basis by other sources.

214 (4) The State Library Section shall propose a rule for legislative approval in accordance
215 with §29A-3-1 et seq. of this code to implement the provisions of this section. The rule shall
216 contain at least the following:

217 (i) A process for submitting and reviewing proposals;

218 (ii) The content of proposals;

219 (iii) Criteria for evaluating proposals; and

220 (iv) Other provisions the State Library Section considers necessary to administer the
221 program in accordance with this section.

222 (5) Any balance, including accrued interest and any other returns, in the fund at the end
223 of each fiscal year will not expire to the General Revenue Fund but remain in the fund and be
224 expended for the purposes provided by this section.

225 (6) In a given year, the State Library Section may not allocate an amount in excess of four
226 percent of the balance of the fund on December 31 of the immediately preceding calendar year
227 for administrative expenses.

228 (7) The State Library Section may invest any or all of the balance of the fund with the
229 state's Consolidated Investment Fund.

§29-1-8d National Coal Heritage Area Commission.

1 (a)(1) The National Coal Heritage Area originally was a partnership project of the National
2 Park Service, and the State of West Virginia as represented by the Division of Tourism and the
3 Division of Culture and History. In January 1999, the Governor of West Virginia appointed 28
4 experts from the state and the region to the National Coal Heritage Area Steering Committee to
5 provide guidance in the development of the National Coal Heritage Area, and in 2002 the West
6 Virginia Legislature created the National Coal Heritage Area Authority, a state agency with an
7 independent board, to serve as the management entity for the National Coal Heritage Area.

8 (2) The West Virginia Legislature finds that there continues to be a significant need for a
9 public body to promote and enhance historic preservation, tourism and economic development
10 activities that relate to the State's history as a coal producing state within the counties of Boone,
11 Cabell, Fayette, Lincoln, Logan, Kanawha, Marion, McDowell, Mercer, Mingo, Raleigh, Summers,
12 Wayne, and Wyoming.

13 (3) The Legislature additionally finds that the state entity previously known as the National
14 Coal Heritage Area Authority can more effectively serve the people of West Virginia through the
15 Department of Arts, Culture, and History, as the National Coal Heritage Area Commission, where
16 it will continue to work with the landowners, county officials and community leaders, state and
17 federal government agencies, and other interested parties to enable and facilitate the

18 development of the national coal heritage area will greatly assist in the realization of these
19 potential benefits.

20 (b) Unless the context clearly requires a different meaning, the terms used in this article
21 have the following meanings:

22 “Commission” means the National Coal Heritage Area Commission;

23 “Department” means the Department of Arts, Culture and History; and

24 “National Coal Heritage Area” means and is comprised of the counties of Boone, Cabell,
25 Fayette, Lincoln, Logan, Kanawha, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne and
26 Wyoming.

27 (c) Creation; appointment of commission; terms; expenses; executive director:

28 (1) There is hereby created the “National Coal Heritage Area Commission” which is a
29 division of the Department of Arts, Culture and History, existing for the purposes of providing
30 direction to and assistance with state and federal historic preservation, economic development,
31 and tourism projects in the national coal heritage area and aiding in the development and
32 implementation of integrated cultural, historical, and land resource management policies and
33 programs in order to retain, enhance, and interpret the significant values of the lands, waters and
34 structures in the national coal heritage area.

35 (2) The commission shall be comprised of, at a minimum, 19 members as follows:

36 (i) The following six persons shall be nonvoting members and shall serve by virtue of their
37 offices and may be represented at meetings of the commission by designees:

38 (A) The curator of the Division of Culture and History, or designee;

39 (B) The secretary of the Department of Environmental Protection, or designee;

40 (C) The secretary of the Tourism Department, or designee;

41 (D) The secretary of the Department of Economic Development, or designee;

42 (E) State Superintendent of Schools, or designee; and

43 (F) The director of the Division of Natural Resources, or designee;

44 (ii) The remaining 13 members shall be appointed for terms of four years by the Governor
45 with the advice and consent of the Senate. The county commission of each of the county within
46 the National Coal Heritage Area may submit to the Governor a list of three candidates to be
47 considered for board appointment. Of these 13 members appointed by the Governor, and each
48 candidate must live or work within the subject county and the appointees shall be representative
49 of the tourism industry, the coal industry, the united mine workers of America, economic
50 development activity, historic preservation activity, or higher education. Additional counties may
51 submit names of individuals fitting the above criteria for consideration as ex-officio, non-voting,
52 board membership.

53 (iii) The terms of office shall be four years and shall expire on June 30. No appointed
54 member may serve more than two consecutive full terms. A member shall continue to serve until
55 his or her successor has been appointed and qualified.

56 (iv) If an appointed member is unable to complete a term, the Governor shall appoint a
57 person to complete the unexpired term. Each vacancy occurring on the board must be filled within
58 60 days after the vacancy is created.

59 (v) Any appointed member of the board shall immediately and automatically forfeit his or
60 her membership on the board if he or she becomes a nonresident of the county, or ceases to be
61 employed in that county, from which he or she was appointed.

62 (vii) Each member of the board shall serve without compensation, but shall receive
63 expense reimbursement for all reasonable and necessary expenses actually incurred in the
64 performance of the duties of the office, in the same amount paid to members of the Legislature
65 for their interim duties as recommended by the citizens legislative compensation commission and
66 authorized by law: *Provided*, That no member may be reimbursed for expenses paid by a third
67 party.

68 (3) The curator of the Department of Arts, Culture and History shall appoint a director to
69 act carry out the actions of the board, which appointment may be in addition to other duties, to

70 serve at the will and pleasure of the curator. The director may employ necessary personnel and
71 retain such temporary consultants or technicians as may be necessary for any special study or
72 survey consistent with the provisions of this section. The director shall carry out plans to
73 implement the provisions of this section and to exercise those powers. The director shall prepare
74 annually, in consultation with the board, a budget for the commission.

75 (c) Board; quorum; chairperson; bylaws.

76 (1) The board is the governing body of the National Coal Heritage Area Commission, and
77 the board may exercise all the powers given the commission in this section.

78 (2) The director shall serve as the board chairperson. The board shall meet at such times
79 as shall be specified by the chairperson, but in no case less than once each three months. A
80 majority of seven appointed members shall constitute a quorum for the transaction of business.

81 (3) There shall be a standing committee of the National Coal Heritage Area Commission
82 known as the "Coal Heritage Trail Committee" comprised of the chairperson and members of the
83 national coal heritage area from the counties that the Coal Heritage Trail passes through. These
84 counties are Mercer, McDowell, Wyoming, Raleigh and Fayette. This standing committee shall
85 be responsible for making recommendations to the full board regarding development and
86 promotion of the Coal Heritage Trail, a national scenic byway.

87 (4) The board shall prescribe, amend, and repeal bylaws and rules governing the manner
88 in which the business of the commission is conducted, shall keep a record of its proceedings, and
89 shall review and approve an annual budget. The board may appoint such officers as necessary
90 to carry out its meetings.

91 (d) Powers of commission.

92 The commission may exercise all powers necessary or appropriate to carry out the
93 purposes of this section, including, but not limited to, the power:

94 (i) To assist in the development and implementation of integrated cultural, historical and
95 land resource management policies and programs in the national coal heritage area;

- 96 (ii) To advise the executive director of the national coal heritage commission in retaining,
97 enhancing and interpreting the significant values of the lands, waters and structures of the area;
- 98 (iii) To enter into partnerships with various preservation groups, landmark commissions,
99 certified local governments, county commissions and other entities to undertake the preservation,
100 restoration, maintenance, operation, development, interpretation and promotion of lands and
101 structures that possess unique and significant historic, architectural, and cultural value associated
102 with the coal mining heritage of the national coal heritage area;
- 103 (iv) To make, amend, repeal, and adopt bylaws for the management and regulation of its
104 affairs;
- 105 (v) To appoint officers, agents and employees, and to contract for and engage the services
106 of consultants;
- 107 (vi) To execute contracts necessary or convenient for carrying on its business, including
108 contracts with any other governmental agency of this state or of the federal government or with
109 any person, individual, partnership or corporation to effect any or all of the purposes of this article;
- 110 (vii) Without in any way limiting any other subdivision of this section, to accept grants and
111 loans from and enter into contracts and other transactions with any federal agency;
- 112 (viii) To maintain an office at such places within the state as it may designate;
- 113 (ix) To accept gifts or grants of property, funds, money, materials, labor, supplies or
114 services from the federal government or from any governmental unit or any person, firm or
115 corporation;
- 116 (x) To construct, reconstruct, improve, maintain, repair, operate and manage certain
117 facilities in the national coal heritage area as may be determined by the commission;
- 118 (xi) To enter into contract with landowners and other persons holding an interest in the
119 land being used for its recreational facilities to hold those landowners and other persons harmless
120 with respect to any claim in tort growing out of the use of the land for public recreation or growing
121 out of the public activities operated or managed by the commission from any claim except a claim

122 for damages proximately caused by the willful or malicious conduct of the landowner or other
123 person or any of his or her agents or employees; and

124 (xii) To assess and collect a reasonable fee from those persons who use the designated
125 facilities which are part of the national coal heritage area, and to retain and utilize that revenue
126 for any purposes consistent with this article.

127 (e) Continuation of legal obligations.

128 Nothing in this section may be considered as superseding, amending, modifying, or
129 repealing any contract or agreement entered into for the benefit of the national coal heritage area
130 prior to the date of enactment of this section. All obligations, contracts, grants, and assets
131 currently belonging to the Coal Heritage Highway Authority and the National Coal Heritage Area
132 Authority shall be transferred to and become the responsibility and property of the National Coal
133 Heritage Area Commission.

ARTICLE 27. NATIONAL COAL HERITAGE AREA AUTHORITY.

§29-27-1. Legislative findings.

1 [Repealed.]

§29-27-2. Definitions.

2 [Repealed.]

§29-27-3. Creation; appointment of board; terms; expenses; executive director.

3 [Repealed.]

§29-27-4. Board; quorum; chairperson; by; laws.

4 [Repealed.]

§29-27-5. Powers of authority.

5 [Repealed.]

§29-27-6. Continuation of legal obligations.

6 [Repealed.]

NOTE: The purpose of this bill is to streamline the operations of two agencies by

reorganizing their duties and functions under the Department of Arts, Culture and History.
create a state library section in the Department of Arts, Culture and History create the
National Coal Heritage Area Commission.

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