

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **Senate Bill 617**

BY SENATOR MAYNARD

[Introduced February 11, 2022; referred  
to the Committee on Government Organization]

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 §10-1-12 of said code; to amend and reenact §11-13J-4a of said code; to  
5 amend and reenact §16-4C-5 of said code; to amend and reenact §16-5Z-2 of said code;  
6 to amend and reenact §16-52-3 of said code; to amend and reenact §17-4A-3 of said  
7 code; to amend and reenact §17-16A-3 of said code; to amend and reenact §17-16B-2 of  
8 said code; to amend and reenact §17-16C-4 of said code; to amend and reenact §18-2-1  
9 of said code; to amend and reenact §18-11-1 of said code; to amend and reenact §18B-  
10 1B-2 of said code; to amend and reenact §22C-3-4 of said code; to amend and reenact  
11 §29-21-3b of said code; to amend §29-22-4 of said code; to amend and reenact §30-38-  
12 6 of said code; to amend and reenact §30-42-4 of said code; and to amend and reenact  
13 §31G-1-3 of said code, all relating to qualifications for members of boards, commissions,  
14 and other entities; reducing number of members of board of directors of nonprofit  
15 corporation operating and maintaining Clay Center for the Arts; revising qualifications for  
16 members of Human Rights Commission; establishing qualifications for members of  
17 Records Management and Preservation Board; revising qualifications for membership on  
18 Tourism Advisory Council; updating number of members of Public Employees Grievance  
19 Board who may be appointed from each congressional district; establishing number of  
20 members of Library Commission who are appointed from each congressional district;  
21 revising number of members of Neighborhood Investment Program Advisory Board from  
22 each congressional district; revising number of members of Emergency Medical Services  
23 Advisory Council appointed from any one congressional district; modifying requirements  
24 for membership on Coalition for Diabetes Management; establishing requirements for  
25 members of Coalition for Chronic Pain Management; revising membership of Complete  
26 Streets Advisory Board; establishing number of appointed members of Parkways Authority

27 and recognizing reduction in number of congressional districts; altering composition of  
 28 membership of Public Port Authority; establishing qualifications for appointed members of  
 29 Public Transit Advisory Council; revising qualifications for appointment to West Virginia  
 30 Board of Education; revising requirements for appointed members of Board of Governors;  
 31 Altering composition of Higher Education Policy Commission; making technical changes  
 32 to qualifications for appointment to Solid Waste Management Board; modifying  
 33 membership of Indigent Defense Commission; providing for qualifications for appointment  
 34 to State Lottery Commission; revising qualifications for appointment to Real Estate  
 35 Appraiser Licensing and Certification Board; revising qualifications for appointment to  
 36 Contractor Licensing Board; and establishing qualifications for membership on Broadband  
 37 Enhancement Council.

*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 ~~comprise~~ 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 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           There shall be a state Library Commission, known as the West Virginia Library  
2 Commission, which shall consist of the Curator of the West Virginia Department of Arts, Culture,  
3 and History as an ex officio voting member and eight members who shall be appointed by the  
4 Governor, by and with the advice and consent of the Senate, each for a term of four years. ~~No~~  
5 ~~more than three~~ Four members ~~may reside in the same~~ shall be appointed from each  
6 congressional district. At least four members of the commission shall be women and at least four  
7 members shall be men. No member of the commission shall receive compensation for services  
8 rendered, nor be engaged or interested in the publishing business.

9           The members of the commission in office on the date this code takes effect shall, unless  
10 sooner removed, continue to serve until their respective terms expire and their successors have  
11 been appointed and have qualified. On or before the expiration of the terms for which the  
12 members are appointed, the Governor shall appoint their successors.

**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.

## **ARTICLE 5Z. COALITION FOR DIABETES MANAGEMENT.**

### **§16-5Z-2. Members of the Coalition for Diabetes Management.**

1 The Coalition for Diabetes Management shall consist of the following members:

2 (1) The Dean of the School of Public Health at West Virginia University, or his or her  
3 designee, who shall serve as chair of the coalition.

4 (2) Four physicians licensed to practice in this state pursuant to §30-3-1 *et seq.* of this  
5 code or §30-14-1 *et seq.* of this code, who shall be appointed by the President of the Senate and  
6 the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee  
7 on Health. These physicians shall be board-certified endocrinologists.

8 (3) A primary care physician licensed to practice in this state pursuant §30-3-1 *et seq.* of



9 this code or §30-14-1 *et seq.* of this code, who shall be appointed by the President of the Senate  
10 and the Speaker of the House of Delegates in consultation with the cochairs of the Joint  
11 Committee on Health.

12 (4) A pediatric physician licensed to practice in this state pursuant to §30-3-1 *et seq.* of  
13 this code or §30-14-1 *et seq.* of this code who shall be appointed by the President of the Senate  
14 and the Speaker of the House of Delegates in consultation with the cochairs of the Joint  
15 Committee on Health.

16 (5) A pharmacist licensed to practice in this state pursuant to §30-5-1 *et seq.* this code.  
17 Preference shall be given to a pharmacist who is certified as a diabetes educator.

18 (6) A dietitian licensed or registered to practice in this state pursuant to §30-35-1 *et seq.*  
19 of this code who is also a diabetic educator who shall be appointed by the President of the Senate  
20 and the Speaker of the House of Delegates in consultation with the cochairs of the Joint  
21 Committee on Health.

22 (7) There shall be ~~equal~~ distribution of the membership of the coalition among the  
23 congressional districts of this state and each congressional district shall be represented in the  
24 membership of the coalition.

25 (8) The cochairs of the Joint Committee on Health serve as nonvoting members, *ex-officio*.

## **ARTICLE 52. COALITION FOR RESPONSIBLE PAIN MANAGEMENT.**

### **§16-52-3. Members of the Coalition for Responsible Chronic Pain Management.**

1 The Coalition for Responsible Chronic Pain Management shall consist of the following  
2 members:

3 (1) The Dean of the School of Public Health at West Virginia University, or his or her  
4 designee, who shall serve as chair of the coalition.

5 (2) A physician who is a board-certified pain specialist.

6 (3) Three physicians licensed to practice in this state pursuant to article three or article  
7 fourteen, chapter thirty of this code who shall be appointed by the President of the Senate and

8 the Speaker of the House of Delegates in consultation with the cochairs of the Joint Committee  
9 on Health. Two of these physicians' practices shall have been classified as a pain clinic pursuant  
10 to the regulations promulgated under article 5H of this chapter. The third physician shall be a  
11 primary care physician who is not classified as a pain clinic.

12 (4) A pharmacist licensed to practice in this state pursuant to §30-5-1 *et seq.* of this code  
13 who shall be appointed by the President of the Senate and the Speaker of the House of Delegates  
14 in consultation with the cochairs of the Joint Committee on Health.

15 (5) A consumer of health care services directly impacted by the regulation of pain clinics  
16 who is appointed by the President of the Senate and the Speaker of the House of Delegates in  
17 consultation with the cochairs of the Joint Committee on Health.

18 (6) A chiropractor licensed pursuant to the provisions of §30-16-1 *et seq.* of this code who  
19 is appointed by the President of the Senate and the Speaker of the House of Delegates in  
20 consultation with the cochairs of the Joint Committee on Health.

21 (7) A Physical Therapist, licensed under chapter thirty of this code, experienced in the  
22 area management of chronic pain by physical, behavioral and other nonpharmacological means  
23 who is appointed by the President of the Senate and the Speaker of the House of Delegates in  
24 consultation with the cochairs of the Joint Committee on Health.

25 (8) Membership on the coalition shall be ~~equally~~ distributed among the congressional  
26 districts of this state and each congressional district shall be represented in the membership of  
27 the coalition.

28 (9) The cochairs of the Joint Committee on Health shall serve as nonvoting members, ex-  
29 officio.

## **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 (†) (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 16B. PUBLIC PORT AUTHORITY.**

##### **§17-16B-2. Board of directors — Members, officers, qualifications, terms, oath, compensation, quorum, and delegation of power.**

1 (a) The governing and administrative powers of the authority shall be vested in a board of  
 2 directors consisting of 11 members, including the transportation secretary, or his or her designee,  
 3 who shall serve as the chairman of the public port authority, and 10 individuals who shall be  
 4 appointed by the Governor with the advice and consent of the Senate: *Provided*, That no more  
 5 than six members shall be members of the same political party.

6 All directors of the authority shall be residents of the State of West Virginia.

7 The directors shall annually elect one of their members as vice chairman. The directors  
 8 shall appoint a person to serve as secretary and as treasurer. The person appointed as treasurer  
 9 shall give a bond for the faithful performance of his or her duties as custodian of all funds,  
 10 securities and other investments of the authority in an amount set by the board. The board may  
 11 elect such other officers from its membership or from its staff as it deems proper, and prescribe  
 12 their powers and duties. Appointments to fill a vacancy of one of the appointed members shall be  
 13 made in the same manner as the original appointment.

14 (b) All appointed members of the board shall be from the private sector, with ~~one member~~



15 ~~two members~~ of the board from each congressional district of the state ~~as of the effective date of~~  
16 ~~this article~~, and shall represent the public interest generally. At least two members shall be  
17 appointed that have recognized ability and practical experience in transportation. At least two  
18 members may be appointed that have recognized ability and practical experience in banking and  
19 finance. At least one member may be appointed that has recognized ability and practical  
20 experience in international trade. At least one member may be appointed that has recognized  
21 ability and practical experience in business management, economics or accounting. Two  
22 members shall be appointed to represent the public at large.

23 One ex officio member of the board shall be the Secretary of the Department of  
24 Commerce, Labor and Environmental Resources or his or her designee.

25 One ex officio member of the board shall be the Director of the Governor's Office of  
26 Community and Industrial Development or his or her designee.

27 (c) Any member of the board of directors of the public port authority, appointed pursuant  
28 to the provisions of this section prior to amendment thereto, and any member of the board of  
29 directors of the wayport authority, appointed under the provisions §5A-16C-2 of this code, prior to  
30 repeal of that section, and confirmed by the Senate of West Virginia, and serving in such capacity  
31 on the effective date of amendment to this section, shall serve as a member of the board of  
32 directors of the public port authority for the duration of the appointed term. Thereafter, their  
33 respective successors shall be appointed for terms of three years. Each member shall serve until  
34 a successor is appointed and qualified.

35 (d) Each director, before entering upon the duties of the board, shall take and subscribe  
36 to the oath or affirmation required by the West Virginia Constitution. A record of each such oath  
37 or affirmation shall be filed in the office of the Secretary of State.

38 (e) Members of the board shall not be entitled to compensation for their services but shall  
39 be reimbursed for all necessary expenses actually incurred in connection with the performance  
40 of their duties as members.

41 (f) Six members of the board shall constitute a quorum and the affirmative vote of the  
 42 majority of members present at a meeting of the board shall be necessary and sufficient for any  
 43 action taken by the board, except that the affirmative vote of at least six members is required for  
 44 the approval of any resolution authorizing the issuance of any bonds pursuant to this article.

45 (g) No vacancy in the membership of the board impairs the right of a quorum to exercise  
 46 all rights and perform all duties of the board. Any action taken by the board may be authorized by  
 47 resolution at any regular or special meeting and shall take effect upon the date the chairman  
 48 certifies the action of the authority by affixing his or her signature to the resolution unless some  
 49 other date is otherwise provided in the resolution.

50 (h) The board may delegate to one or more of its members or to its officials, agents, or  
 51 employees such powers and duties as it may deem proper.

## **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~~  
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.

## **CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.**

### **ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.**

#### **§31G-1-3. Broadband Enhancement Council; members of council; administrative support.**

1 (a) The Broadband Enhancement Council is hereby established and continued. The  
2 current members, funds, and personnel shall continue in effect and be wholly transferred; except  
3 as may be hereinafter provided. With regard to the terms of the public members appointed under  
4 subdivision five, subsection (d) of this section, at the next regular meeting of the council following  
5 July 1, 2017, the currently serving public members shall draw by lot for the length of their terms,  
6 three members to serve for one additional year, three members to serve for two additional years  
7 and the last three members to serve for three additional years, with all public members in future  
8 to serve for the duration of the term described below.

9 (b) The council is a governmental instrumentality of the state. The exercise by the council  
10 of the powers conferred by this article and the carrying out of its purpose and duties are  
11 considered and held to be, and are hereby determined to be, essential governmental functions  
12 and for a public purpose. The council is created under the Department of Commerce for  
13 administrative, personnel, and technical support services only.

14 (c) The council shall consist of ~~13~~ 11 voting members, designated as follows:

15 (1) The Secretary of Commerce or his or her designee;

16 (2) The Chief Technology Officer or his or her designee;

17 (3) The Vice Chancellor for Administration of the Higher Education Policy Commission or  
18 his or her designee;

19 (4) The State Superintendent of Schools or his or her designee;

20 (5) ~~Nine~~ Seven public members that shall serve no more than three consecutive three  
21 year terms from the date of their appointment and are appointed by and serve at the will and  
22 pleasure of the Governor with the advice and consent of the Senate, as follows:

23 (i) One member representing users of large amounts of broadband services in this state;

24 (ii) One member from each congressional district representing rural business users in this  
25 state;

26 (iii) One member from each congressional district representing rural residential users in

27 this state;

28 (iv) One member representing urban business users in this state; and

29 (v) One member representing urban residential users in this state; and

30 (6) Additionally, the President of the Senate shall name two Senators from the West

31 Virginia Senate, one from each party, and the Speaker of the House shall name two Delegates

32 from the West Virginia House of Delegates, one from each party, each to serve in the capacity of

33 ex officio, nonvoting advisory members of the council.

34 (d) The Secretary of Commerce shall chair the first meeting at which time a chair and vice

35 chair shall be elected from the members of the council for a term of two years: *Provided*, That a

36 chair or vice-chair may not serve more than two consecutive full or partial terms in that capacity.

37 In the absence of the chair, the vice chair shall serve as chair. The council shall appoint a

38 secretary-treasurer who need not be a member of the council and who, among other tasks or

39 functions designated by the council, shall keep records of its proceedings.

40 (e) The council may appoint committees or subcommittees to investigate and make

41 recommendations to the full council. Members of these committees or subcommittees need not

42 be members of the council.

43 (f) ~~Seven~~ Six voting members of the council constitute a quorum and the affirmative vote

44 of a simple majority of those members present is necessary for any action taken by vote of the

45 council.

46 (g) The gubernatorial appointed members shall be deemed part-time public officials, and

47 may pursue and engage in another business or occupation or gainful employment. Any person

48 employed by, owning an interest in, or otherwise associated with a broadband deployment project,

49 project sponsor, or project participant may serve as a council member and is not disqualified from

50 serving as a council member because of a conflict of interest prohibited under §6B-2-5 of this

51 code and is not subject to prosecution for violation of that section when the violation is created

52 solely as a result of his or her relationship with the broadband deployment project, project sponsor,

53 or project participant so long as the member recuses himself or herself from board participation  
54 regarding the conflicting issue in the manner set forth in §6B-2-5 of this code and the legislative  
55 rules promulgated by the West Virginia Ethics Commission.

56 (h) No member of the council who serves by virtue of his or her office may receive any  
57 compensation or reimbursement of expenses for serving as a member. The public members and  
58 members of any committees or subcommittees are entitled to be reimbursed for actual and  
59 necessary expenses incurred for each day or portion thereof engaged in the discharge of his or  
60 her official duties in a manner consistent with the guidelines of the Travel Management Office of  
61 the Department of Administration.

62 (i) No person is subject to antitrust or unfair competition liability based on membership or  
63 participation in the council, which provides an essential governmental function and enjoys state  
64 action immunity.