

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4908**

By Delegate Summers

[Originating in the Committee on Health and Human

Resources; Reported on January 22, 2024]



1 A BILL to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended, to amend  
2 and reenact §16-1-3 of said code; and to amend and reenact §26-1-3 of said code, all  
3 relating to exempting certain contracts from purchasing; permitting the state agencies to  
4 contract with a West Virginia public health institute; permitting the state agencies to  
5 contract with West Virginia University; permitting the state agencies to contract with West  
6 Virginia School of Osteopathic Medicine; permitting the state agencies to contract with  
7 Marshall University; and removing outdated provisions from the code.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 9. HUMAN SERVICES.**

### **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.**

#### **§9-2-6. Secretary of Department of Human Services; powers and duties.**

1 In addition to the authority provided in §5F-2-2 of this code, the secretary shall:

2 (1) Coordinate efforts with the Secretary of Health and the Secretary of Health Facilities,  
3 including authority to share the expense of administrative services through a memorandum of  
4 understanding established by agreement of the secretaries as required under §5F-2-1a of this  
5 code;

6 (2) Promulgate, amend, revise, and rescind legislative rules and policies respecting  
7 qualifications for receiving assistance consistent with or permitted by federal laws, rules, and  
8 policies, but not inconsistent with state law: *Provided*, That rules and policies respecting  
9 qualifications shall permit the expenditure of state funds to pay for care rendered in any birthing  
10 center licensed under the provisions of §16-2E-1 *et seq.* of this code by a licensed nurse midwife  
11 or midwife as this occupation is defined in §30-15-7 of this code and which care is within the scope  
12 of duties for such licensed nurse midwife or midwife as permitted by §30-15-7 of this code;

13 (3) Obtain by purchase or lease grounds, buildings, office, or other space, equipment,  
14 facilities, and services as may be necessary for the execution and administration of the secretary's  
15 powers: *Provided*, That the provisions of §5A-10-1 *et seq.* of this code are followed;

16 (4) Contract with the federal government or its agencies, other states, political subdivisions  
17 of this state, corporations, associations, partnerships, or individuals: *Provided*, That the provisions  
18 of §5A-3-1 *et seq.* of this code are followed;

19 (5) Contract to implement professional health care, managed care, actuarial and health  
20 care-related monitoring, quality review/utilization, claims processing, and independent  
21 professional consultant contracts for the Medicaid program: *Provided*, That the provisions of §5A-  
22 3-1 *et seq.* of this code are followed.

23 (6) Accept gifts or grants, whether in money, land, services, or materials, which gift or gifts,  
24 if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose of  
25 public assistance programs. No part of this special fund may revert to the general revenue funds of  
26 this state. No expenses incurred pursuant to this special fund may be a charge against the general  
27 funds of this state;

28 ~~(7) Establish within the department an Office of Inspector General for the purpose of~~  
29 ~~conducting and supervising investigations, performing inspections, evaluations, and review, and~~  
30 ~~providing quality control for the programs of the department. The Office of Inspector General shall~~  
31 ~~be headed by the Inspector General who shall report directly to the secretary. Neither the~~  
32 ~~secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector~~  
33 ~~General or his or her employees from initiating, carrying out, or completing any investigation,~~  
34 ~~inspection, evaluation, review, or other activity oversight of public integrity by the Office of the~~  
35 ~~Inspector General. The secretary shall place within the Office of Inspector General any function he~~  
36 ~~or she deems necessary. Qualification, compensation, and personnel practice relating to the~~  
37 ~~employees of the Office of the Inspector General, including that of the position of Inspector~~  
38 ~~General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and~~

39 ~~rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of~~  
40 ~~Inspector General: *Provided*, That beginning January 1, 2024, the provisions of this subdivision~~  
41 ~~expire and shall be superseded by the provisions of §16-1-22 of this code.~~

42 (8) Provide at department expense a program of continuing professional, technical, and  
43 specialized instruction for the personnel of the department;

44 (9) (8) Pay from available funds all or part of the reasonable expenses incurred by a person  
45 newly employed by the department in moving his household furniture, effects, and immediate  
46 family from his or her place of residence in this state to his or her place of employment in this state;  
47 and to pay from available funds all or part of the reasonable expenses incurred by a department  
48 employee in moving his or her household furniture, effects, and immediate family as a result of a  
49 reassignment of the employee which is considered desirable, advantageous to and in the best  
50 interests of the state, but no part of the moving expenses of any one such employee may be paid  
51 more frequently than once in 12 months or for any movement other than from one place of  
52 employment in this state to another place of employment in this state;

53 (10) (9) Establish a program to provide reimbursement to employees of the department  
54 whose items of personal property, as defined by the department by policy, are damaged during the  
55 course of employment or other work-related activity as a result of aggressive behavior by a client  
56 or patient receiving services from the department: *Provided*, That the reimbursement is limited to a  
57 maximum amount of \$250 per claim;

58 (11) (10) Prepare and submit state plans which will meet the requirements of federal laws,  
59 rules governing federal-state assistance, and federal assistance, and which are not inconsistent  
60 with state law;

61 (12) ~~Organize within the department a board of review, consisting of a chairman appointed~~  
62 ~~by the secretary and as many assistants or employees of the department as may be determined~~  
63 ~~by the secretary and as may be required by federal laws and rules respecting state assistance,~~  
64 ~~federal-state assistance, and federal assistance, the board of review to have such powers of a~~

65 shall review nature and such additional powers as may be granted to it by the secretary and as  
66 may be required by federal laws and rules respecting federal state assistance and federal  
67 assistance: *Provided*, That beginning January 1, 2024, the provisions of this subdivision expire  
68 and shall be superseded by the provisions of §16-1-22 of this code.

69 ~~(13) Provide by rules, review and appeal procedures within the department of Health and~~  
70 ~~Human Resources as may be required by applicable federal laws and rules respecting state~~  
71 ~~assistance, federal state assistance, and federal assistance, and as will provide applicants for,~~  
72 ~~and recipients of, all classes of welfare assistance an opportunity to be heard by the board of~~  
73 ~~review, a member thereof, or individuals designated by the board, upon claims involving denial,~~  
74 ~~reduction, closure, delay, or other action or inaction pertaining to public assistance: *Provided*, That~~  
75 ~~beginning January 1, 2024, the provisions of this subdivision expire and shall be superseded by~~  
76 ~~the provisions of §16-1-22 of this code.~~

77 ~~(14) (11) Provide by rules, consistent with requirements of applicable federal laws and~~  
78 ~~rules, application forms and application procedures for public assistance;~~

79 ~~(15) (12) Provide locations for making applications for public assistance;~~

80 ~~(16) (13) Provide a citizen or group of citizens an opportunity to file objections and to be~~  
81 ~~heard upon objections to the grant of public assistance;~~

82 ~~(17) (14) Delegate to the personnel of the department all powers and duties vested in the~~  
83 ~~secretary;~~

84 ~~(18) (15) Make reports as may be required by applicable federal laws and rules respecting~~  
85 ~~assistance;~~

86 ~~(19) (16) Invoke any legal, equitable, or special remedies for the enforcement of the~~  
87 ~~provisions of this chapter;~~

88 ~~(20) (17) Require a provider, subgrantee, or other entity performing services on behalf of~~  
89 ~~the department to comply with all applicable laws, rules, and written procedures pertaining to the~~  
90 ~~program for which the entity is providing or coordinating services, including, but not limited to,~~

91 policy manuals, statements of work, program instructions, or other similar agreements. When  
92 submitting a claim for payment, the entity shall certify that it has complied with all material  
93 conditions for payment. Knowingly and intentionally submitting a claim or billing for services  
94 performed in material violation of any law, rule, policy, or other written agreement shall constitute  
95 fraud and the agreement for provision of services shall terminate. The entity shall be required to  
96 repay the department for any payment under the program for which the provider was not entitled,  
97 regardless of whether the incorrect payment was the result of department error, fraud, or other  
98 cause. A demand for repayment or termination of agreement for provision of services shall be  
99 subject to the due process procedures pursuant to §29A-5-1 *et seq.* of this code. The provisions of  
100 this subdivision do not apply to fraud in the Medicaid program;

101 ~~(24)~~ (18) Develop a data analytics pilot program to identify potential fraud and help guide  
102 policy objectives to eliminate future fraud;

103 ~~(22)~~ (19) Cooperate with the Office of the Inspector General and take action on its findings;  
104 ~~and~~

105 ~~(23)~~ (20) Annually allocate Child Protective Services workers by districts of the Bureau for  
106 Social Services and report the allocation process to the Legislative Oversight Commission on  
107 Health and Human Resources Accountability by July 1 each year; and

108 (21) Any contract, agreement or memorandum of understanding between the secretary  
109 and West Virginia University, West Virginia School of Osteopathic Medicine, Marshall University or  
110 West Virginia's public health institute as designated by the National Network of Public Health  
111 Institutes for services is exempt from the provisions of §5A-3-1 *et seq.*, of this code.

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

#### §16-1-3. Powers and duties of the Secretary.

1 (a) The secretary may establish a state public health system.

2 (b) As necessary for the effective, efficient, and economical operation of the system, the  
3 secretary may from time to time delegate, assign, transfer, or combine responsibilities or duties to  
4 or among employees of the department.

5 (c) Within the limits of applicable federal law, the secretary may require every applicant for  
6 a license, permit, certificate of registration, or registration under this chapter to place his or her  
7 social security number on the application.

8 (d) The secretary may appoint advisory councils.

9 (e) (1) The Secretary of the Department of Health is the chief executive officer of that  
10 department and beginning January 1, 2024, is charged with the administration of this chapter. The  
11 Governor shall appoint the secretary, by and with the advice and consent of the Senate, for the  
12 term for which the Governor is elected, and the secretary shall serve at the will and pleasure of the  
13 Governor. ~~The Secretary shall be paid an annual salary not to exceed \$175,000. Upon his or her~~  
14 ~~initial appointment, which may be at any time after the effective date of this act, the Secretary shall~~  
15 ~~take the oath of office described in this section and commence his or her duties. If appointed~~  
16 ~~before January 1, 2024, the Secretary shall take the oath of office described in this section and~~  
17 ~~commence such duties as determined by the Secretary to be necessary to prepare for the~~  
18 ~~administration of this chapter.~~

19 (2) Before entering upon the duties of his or her office, the secretary shall take and  
20 subscribe to the oath of office prescribed by section five, article four of the state Constitution.

21 (3) The secretary shall not be a candidate for, or hold, any other public office or public  
22 employment under the federal government or under the government of this state or any of its  
23 political subdivisions, or be a member or officer of any political party committee, or serve as an  
24 election official, or engage in any political activity, other than to vote, in behalf of, or in opposition  
25 to, any candidate, political party or public issue involved in an election. Any violation by the  
26 secretary of the provisions of this section shall automatically vacate his or her appointment as  
27 secretary.

- 28 (4) In addition to the authority provided in §5F-2-2 of this code, the secretary shall:
- 29 (A) Coordinate efforts with the Secretary of Human Services and the Secretary of Health
- 30 Facilities, including authority to share the expense of administrative services through a
- 31 memorandum of understanding established by agreement of the secretaries as required under
- 32 §5F-2-1a of this code;
- 33 (B) Establish a state public health system; and
- 34 (C) Cooperate with the Office of the Inspector General and take action on its findings;
- 35 (5) The secretary may:
- 36 (1) Within the limits of applicable federal law, the secretary may require every applicant for
- 37 a license, permit, certificate of registration, or registration under this chapter to place his or her
- 38 social security number on the application; and
- 39 (2) Appoint advisory councils.
- 40 (f) Any contract, agreement or memorandum of understanding between the secretary and
- 41 West Virginia University, West Virginia School of Osteopathic Medicine, ~~or~~ Marshall University or
- 42 West Virginia's public health institute as designated by the National Network of Public Health
- 43 Institutes for services is exempt from the provisions of §5A-3-1 *et seq.*, of this code.

## CHAPTER 26. STATE HEALTH FACILITIES.

### ARTICLE 1. DEPARTMENT OF HEALTH FACILITIES.

#### §26-1-3. Secretary of Department of Health Facilities; powers and duties.

- 1 (a) In addition to the authority provided in §5F-2-2 of this code, the secretary shall:
- 2 (1) Coordinate efforts with the Secretary of Human Services and the Secretary of Health,
- 3 including authority to share the expense of administrative services through a memorandum of
- 4 understanding established by agreement of the secretaries as required under §5F-2-1a of this
- 5 code;
- 6 (2) Manage, direct, control, and govern state owned health facilities;

7 (3) Operate state health facilities and adopt rules pertaining to their operation;

8 (4) Protect the rights of clients served by state health facilities;

9 (5) Develop and implement critical performance indicators to be used to hold state  
10 hospitals accountable. The performance system indicators shall be implemented no later than  
11 January 1, 2025; and

12 (6) Cooperate with the Office of the Inspector General and take action on its findings.

13 (b) The Secretary may:

14 (1) Acquire by condemnation or otherwise any interest, right, privilege, land, or  
15 improvement and hold title to the land or improvement, for the use or benefit of the state or a state  
16 hospital or facility, to sell, exchange or otherwise convey any interest, right, privilege, land, or  
17 improvement acquired or held by the state, state hospital, or state facility. Any condemnation  
18 proceedings shall be conducted pursuant to §54-1-1 *et seq.* of this code;

19 (2) Receive donations;

20 (3) Accept, allocate, and spend any federal funds that may be made available to the state  
21 by the federal government; and

22 (4) Transfer residents between the facilities. The clinical director may accept transfer of  
23 residents from correctional institutions, subject to the provisions of §28-1-1 *et seq.* of this code.

24 (c) Any contract, agreement or memorandum of understanding between the secretary and  
25 West Virginia University, West Virginia School of Osteopathic Medicine, ~~or~~ Marshall University or  
26 West Virginia's public health institute as designated by the National Network of Public Health  
27 Institutes for services is exempt from the provisions of §5A-3-1 *et seq.*, of this code.

NOTE: The purpose of this bill is to permit government agencies to contract with a West Virginia public health institute.

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