

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 865

BY SENATORS WOODRUM, WOELFEL, MARONEY, AND

GRADY

[Originating in the Committee on Government

Organization; reported February 22, 2024]

1 A BILL to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §29-1-1 of said code, all relating to changing the designation of the
3 Division of Culture and History as a separate independent agency to an agency within the
4 executive branch as the Department of Arts, Culture, and History; adding the Educational
5 Broadcasting Authority as a section under the department, as a separate, but not
6 independent agency; adding the Educational Broadcasting Commission to the list of
7 citizens commissions; changing references to the Curator of the Department of Arts,
8 Culture, and History to the Secretary of the Department; adding the Educational
9 Broadcasting Authority as one of the eight sections within the Department of Arts, Culture,
10 and History; and adding the Educational Broadcasting Commission as a citizen
11 commission existing within the Department of Arts, Culture, and History.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

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

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

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

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

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

- 10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
- 11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;
- 12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- 13 (9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- 14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and
- 15 (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

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

- 19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:
 - 20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
 - 21 this code; and

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

- 24 (2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code.
25 The following boards are transferred to the Office of Miners' Health, Safety, and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

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

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

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

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

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

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

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

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development;

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

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

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

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

47 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
48 this code is continued as a separate independent agency within the Department of Arts, Culture,
49 and History, which shall provide administrative support for the authority.

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

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

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

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

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

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

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

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

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

65 (h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards,
66 including all of the allied, advisory, affiliated, or related entities and funds associated with any
67 agency or board, are incorporated in and administered as a part of the Department of Health and
68 Human Resources:

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

70 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

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

73 (4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

74 (5) The Developmental Disabilities Council established by Executive Order No. 6-88 and
75 continued by Executive Order No. 15-99;

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

77 (7) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

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

81 (1) West Virginia State Police;

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

87 (3) Division of Administrative Services;

- 88 (4) Division of Corrections and Rehabilitation;
- 89 (5) Fire Commission;
- 90 (6) State Fire Marshal;
- 91 (7) Board of Probation and Parole;
- 92 (8) The West Virginia Fusion Center;
- 93 (9) Division of Protective Services; and
- 94 (10) Any other agency or entity hereinafter established within the Department of Homeland
- 95 Security by an act of the Legislature.

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

- 99 (1) Tax Division provided in §11-1-1 *et seq.* of this code;
- 100 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;
- 101 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this
- 102 code;
- 103 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;
- 104 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
- 105 this code and §60-2-1 *et seq.* of this code;
- 106 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;
- 107 (7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;
- 108 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;
- 109 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;
- 110 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;
- 111 (11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and
- 112 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

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

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

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

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

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

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

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

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

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

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

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

135 (o) Any department previously transferred to and incorporated in a department by prior
136 enactment of this section means a division of the appropriate department. Wherever reference is
137 made to any department transferred to and incorporated in a department created in §5F-1-2 of
138 this code, the reference means a division of the appropriate department and any reference to a

139 division of a department so transferred and incorporated means a section of the appropriate
140 division of the department.

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

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

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

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

10 (1) The arts section;

11 (2) The archives and history section;

12 (3) The museums section;

13 (4) The historic preservation section;

14 (5) The state library section;

15 (6) The National Coal Heritage Area Commission; ~~and~~

16 (7) The administrative section; and

17 (8) The Educational Broadcasting Authority.

18 (c) The department shall also consist of ~~three~~ four citizens commissions as follows:

19 (1) A Commission on the Arts;

20 (2) A Commission on Archives and History; ~~and~~

21 (3) A Library Commission; and

22 (4) An Educational Broadcasting Commission.

23 (d) The ~~curator~~ secretary shall exercise control and supervision of the department and

24 shall be responsible for the projects, programs, and actions of each of its sections. The purpose

25 and duty of the department is to advance, foster, and promote the creative and performing arts

26 and crafts, including both indoor and outdoor exhibits and performances; to advance, foster,

27 promote, identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and

28 significant architectural sites, structures, and objects in the state; to encourage the promotion,

29 preservation, and development of significant sites, structures, and objects through the use of

30 economic development activities such as loans, subsidies, grants, and other incentives; to

31 coordinate all cultural, historical, and artistic activities in state government and at state-owned

32 facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of

33 historical interest or importance; and, in general, to do all things necessary or convenient to

34 preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of

35 these purposes and duties, the ~~curator~~ secretary shall report directly to the Governor as a ~~curator~~
36 secretary for both the intrinsic and extrinsic value for individuals, communities, and the economy
37 of the arts, humanities, culture, and history in West Virginia. As such, the ~~curator~~ secretary shall
38 represent the Department of Arts, Culture, and History as a full participating member in meetings
39 of the secretaries of the departments created in §5F-1-2 of this code that are convened at the call
40 of the Governor.

41 (e) The department ~~shall have~~ has jurisdiction and control and may set and collect fees
42 for the use of all space in the building presently known as the West Virginia Science and Culture
43 Center, including the deck and courtyards forming an integral part thereof; the building presently
44 known as West Virginia Independence Hall in Wheeling, including all the grounds and
45 appurtenances thereof; Camp Washington Carver in Fayette County, as provided in §29-1-14 of
46 this code; and any other sites as may be transferred to or acquired by the department.
47 Notwithstanding any provision of this code to the contrary, beginning on and after July 1, 2018,
48 the department shall have responsibility for, and control of, all visitor touring and visitor tour guide
49 activities within the Capitol Building at Charleston.

50 (f) For the purposes of this article, “commissioner” or “curator” means the ~~Curator~~ Cabinet
51 Secretary of Arts, Culture, and History, and “division” or “department” means the Department of
52 Arts, Culture and History. References throughout this code to the “Commissioner of Culture and
53 History” mean the “~~Curator~~ Cabinet Secretary of Arts, Culture, and History”, and references
54 throughout this code to the “Division of Culture and History” mean the “Department of Arts,
55 Culture, and History”.

56 ~~(g) Nothing in this article or any other provision of this code may be construed to mean~~
57 ~~that the Department of Arts, Culture, and History is an executive department created pursuant to~~
58 ~~§5F-1-2 of this code, nor that the curator is the secretary of an executive department created~~
59 ~~pursuant to that section.~~