WEST VIRGINIA CODE: §22-1-6

§22-1-6. Secretary of the Department of Environmental Protection.

(a) The secretary is the chief executive officer of the department. Subject to §22-1-7 of this code and other provisions of law, the secretary shall organize the department into such offices, sections, agencies, and other units of activity as may be found by the secretary to be desirable for the orderly, efficient, and economical administration of the department, and for the accomplishment of its objects and purposes. The secretary may appoint a deputy secretary, chief of staff, assistants, hearing officers, clerks, stenographers and other officers, technical personnel, and employees needed for the operation of the department and may prescribe their powers and duties and fix their compensation within amounts appropriated.

(b) The secretary has the power to and may designate supervisory officers or other officers or employees of the department to substitute for him or her on any board or commission established under this code or to sit in his or her place in any hearings, appeals, meetings, or other activities with such substitute having the same powers, duties, authority and responsibility as the secretary. The secretary has the power to delegate, as he or she considers appropriate, to supervisory officers or other officers or employees of the department his or her powers, duties, authority, and responsibility relating to issuing permits, hiring and training inspectors, and other employees of the department, conducting hearings and appeals and such other duties and functions set forth in this chapter or elsewhere in this code.

(c) The secretary has responsibility for the conduct of the intergovernmental relations of the department, including assuring:

(1) That the department carries out its functions in a manner which supplements and complements the environmental policies, programs, and procedures of the federal government, other state governments and other instrumentalities of this state; and

(2) That appropriate officers and employees of the department consult with individuals responsible for making policy relating to environmental issues in the federal government, other state governments, and other instrumentalities of this state concerning differences over environmental policies, programs, and procedures and concerning the impact of statutory law and rules upon the environment of this state.

(d) In addition to other powers, duties, and responsibilities granted and assigned to the secretary by this chapter, the secretary is authorized and empowered to:

(1) Sign and execute in the name of the state by the Department of Environmental Protection any contract or agreement with the federal government or its departments or agencies, subdivisions of the state, corporations, associations, partnerships, or individuals: *Provided,* That the powers granted to the secretary to enter into agreements or contracts and to make

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expenditures and obligations of public funds under this subdivision may not exceed or be interpreted as authority to exceed the powers granted by the Legislature to the various commissioners, directors, or board members of the various departments, agencies, or boards that comprise and are incorporated into each secretary's department pursuant to the provisions of chapter 5F of this code;

(2) Conduct research in improved environmental protection methods and disseminate information to the citizens of this state;

(3) Enter private lands to make surveys and inspections for environmental protection purposes; to investigate for violations of statutes or rules which the department is charged with enforcing; to serve and execute warrants and processes; to make arrests; issue orders, which for the purposes of this chapter include consent agreements; and to otherwise enforce the statutes or rules which the department is charged with enforcing;

(4) Require any applicant or holder of a permit to install, establish, modify, operate, or close a solid waste facility to furnish the fingerprints of the applicant or permittee; any officer, director, or manager of the applicant or permittee; any person owning a five percent or more interest, beneficial or otherwise, in the applicant's or permittee's business; or any other person conducting or managing the affairs of the applicant or permittee or of the proposed licensed premises, in whole or in part. These fingerprints may be used to obtain and review any police record for the purposes set may be relevant pursuant to §20-15-5 of this code, and to use the fingerprints furnished to conduct a criminal records check through the Criminal Identification Bureau of the West Virginia State Police and a national criminal history check through the Federal Bureau of Investigation. The results of the checks shall be provided to the secretary.

(5) Acquire for the state in the name of the Department of Environmental Protection by purchase, condemnation, lease, or agreement, or accept or reject for the state, in the name of the Department of Environmental Protection, gifts, donations, contributions, bequests, or devises of money, security, or property, both real and personal, and any interest in property;

(6) Provide for workshops, training programs and other educational programs, apart from or in cooperation with other governmental agencies, necessary to ensure adequate standards of public service in the department. The secretary may provide for technical training and specialized instruction of any employee. Approved educational programs, training, and instruction time may be compensated for as a part of regular employment. The secretary is authorized to pay out of federal or state funds, or both, as such funds are available, fees and expenses incidental to the educational programs, training, and instruction. Eligibility for participation by employees shall be in accordance with guidelines established by the secretary;

(7) Issue certifications required under 33 U.S.C. §1341 of the federal Clean Water Act and enter into agreements in accordance with the provisions of §22-11-7a of this code. Prior to issuing any certification the secretary shall solicit from the Division of Natural Resources

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reports and comments concerning the possible certification. The Division of Natural Resources shall direct the reports and comments to the secretary for consideration;

(8) Notwithstanding any provisions of this code to the contrary, employ in-house counsel to perform all legal services for the secretary and the department, including, but not limited to, representing the secretary, any chief, the department or any office thereof in any administrative proceeding or in any proceeding in any state or federal court. Additionally, the secretary may call upon the Attorney General for legal assistance and representation as provided by law; and

(9) Cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties.

(e) The secretary shall be appointed by the Governor, by and with the advice and consent of the Senate, and serves at the will and pleasure of the Governor.

(f) At the time of his or her initial appointment, the secretary must be at least 30 years old and shall be selected with special reference and consideration given to his or her administrative experience and ability, to his or her demonstrated interest in the effective and responsible regulation of the energy industry and the conservation and wise use of natural resources. The secretary must have at least a bachelor's degree in a related field and at least three years of experience in a position of responsible charge in at least one discipline relating to the duties and responsibilities for which the secretary will be responsible upon assumption of the office. The secretary may not be a candidate for or hold any other public office, may not be a member of any political party committee and shall immediately forfeit and vacate his or her office as secretary in the event he or she becomes a candidate for or accepts appointment to any other public office or political party committee.

(g) The secretary shall receive an annual salary as provided in §6-7-2a of this code and is allowed and shall be paid necessary expenses incident to the performance of his or her official duties. Prior to the assumption of the duties of his or her office, the secretary shall take and subscribe to the oath required of public officers prescribed by section five, article IV of the Constitution of West Virginia and shall execute a bond, with surety approved by the Governor, in the penal sum of $10,000, which executed oath and bond will be filed in the Office of the Secretary of State. Premiums on the bond shall be paid from the department funds.

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