

No. 2

WEST VIRGINIA LEGISLATURE

[REDACTED]
FIRST EXTRAORDINARY SESSION, 1989



ENROLLED

Committee Substitute for

SENATE BILL NO. 2

(By Senator Tucker, Mr. President, et al)



PASSED February 1 1989

In Effect from Passage

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SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 2
(By SENATORS TUCKER (Mr. PRESIDENT) AND HARMAN,
By REQUEST OF THE EXECUTIVE)

[Passed February 7, 1989; in effect from passage:]

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new chapter, designated chapter five-f, relating to the reorganization of the executive branch of state government; setting forth certain legislative findings and declarations; providing a rule of construction; creating seven new departments in the executive branch of state government; creating the office of secretary as the administrative head of each such department; specifying the appointment, term, oath, bond and compensation of each such secretary and funding for expenditures for personal services of the secretary's office; defining terms; providing for the transfer to and incorporation in such departments of numerous state agencies and boards and their allied, advisory, affiliated and related entities and funds; retaining the existence, powers, authority, duties and status of administrators, agencies and boards; providing for code references elsewhere; relating to the powers and authority of the secretary of each such department; providing rule-making authority; making special provisions for federal law or regulation,

federal-state programs or federally delegated programs; specifying the appointment, term, qualifications, oath, bond and compensation of administrators of all transferred and incorporated agencies and boards; authorizing dual office-holding; providing for the transfer of records, property and personnel; providing for a report to the Legislature concerning further reorganization of the executive branch of state government; providing operative date for implementation; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new chapter, designated chapter five-f, to read as follows:

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

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-1. Legislative findings and declarations.

1 (a) The Legislature hereby finds and declares that
2 state government must be made more responsive to
3 the citizens of the state; that the various agencies and
4 boards responsible for the execution of the laws of this
5 state must be improved; that more effective manage-
6 ment of the executive branch of state government
7 must be achieved; that the efficiency of the operations
8 of the agencies and boards of state government must
9 be increased; and that in view of the financial crisis
10 facing the state of West Virginia, it is essential to
11 compel a curtailment and reduction of governmental
12 expenses and hold them within reasonable bounds
13 consistent with the economical and efficient adminis-
14 tration of governmental services and to ensure the
15 strictest economy in the matter of governmental
16 expenditures to the end that agencies and boards of
17 government may not be compelled to abdicate their
18 responsibilities or cease to function but that in
19 carrying out their responsibilities they shall not place
20 upon the public any expense which is not necessary.

21 The Legislature further hereby finds and declares that
22 in order to achieve these purposes, it is essential to
23 reorganize the executive branch of state government
24 so as to:

25 (1) Promote the execution of the laws, the more
26 effective management of the executive branch and of
27 its agencies, boards and functions, and the expeditious
28 administration of the public business;

29 (2) Reduce expenditures and promote economy to
30 the fullest extent consistent with the efficient
31 operation of state government;

32 (3) Increase the efficiency of the operations of state
33 government to the fullest extent practicable;

34 (4) Group, coordinate and consolidate agencies and
35 functions of state government, as nearly as may be,
36 according to purposes;

37 (5) Consolidate or combine those agencies having
38 similar or complementary functions under a single
39 head, and, after observing and analyzing the operation
40 of such consolidated or combined agencies for a period
41 of time, abolish by legislative act, where legislative
42 action is required, such agencies or functions thereof
43 as are determined not to be necessary or desirable for
44 the efficient conduct of the state government;

45 (6) Eliminate duplication of effort;

46 (7) Provide for appropriate legislative oversight as
47 mandated in the constitution of this state; and

48 (8) Provide for a spirit of cooperation and unity
49 between the executive and legislative branches in
50 addressing and developing solutions to the problems
51 facing the state.

52 (b) This chapter is enacted in view and because of
53 the findings and declarations set forth in subsection (a)
54 of this section and shall be construed in the light
55 thereof.

§5F-1-2. Executive departments created; offices of secretary created; funds.

1 (a) There are hereby created, within the executive
2 branch of the state government, the following
3 departments:

4 (1) Department of administration;

5 (2) Department of commerce, labor and
6 environmental resources;

7 (3) Department of education and the arts;

8 (4) Department of health and human resources;

9 (5) Department of public safety;

10 (6) Department of tax and revenue; and

11 (7) Department of transportation.

12 (b) Each department shall be headed by a secretary
13 who shall be appointed by the governor by and with
14 the advice and consent of the Senate and who shall
15 serve at the will and pleasure of the governor.

§5F-1-3. Oath; bond; compensation.

1 (a) Each person appointed to serve as a secretary
2 shall take the oath or affirmation prescribed by section
3 five, article four of the constitution, and such oath
4 shall be certified by the person who administers the
5 same and filed in the office of the secretary of state.

6 (b) Each person so appointed shall give bond in the
7 penalty of twenty-five thousand dollars conditioned for
8 the faithful performance of the duties of the office,
9 which bond shall be approved by the attorney general
10 as to form and by the governor as to sufficiency. The
11 surety of such bond may be a bonding or surety
12 company, in which case the premium shall be paid out
13 of the appropriation made for the administration of
14 the department.

15 (c) Each secretary shall receive an annual salary as
16 shall be fixed from time to time by the governor
17 within the limit of funds appropriated to the depart-
18 ment and available for such purpose.

19 (d) The salary and expenses necessary for each
 20 secretary and all expenditures for personal services for
 21 the office of secretary shall be paid from and within
 22 existing appropriations made to the agencies and
 23 boards transferred to the department headed by that
 24 secretary, and revised expenditure schedules shall be
 25 submitted to the commissioner of finance and admin-
 26 istration and the legislative auditor stating the amount
 27 and source of funds to be expended: *Provided*, That for
 28 fiscal years beginning the first day of July, one
 29 thousand nine hundred eighty-nine, such amounts
 30 shall follow the procedures described in chapter five-
 31 a of this code.

§5F-1-4. Definitions.

1 (a) As used in this chapter, unless the context clearly
 2 requires a different meaning:

3 (1) "Administrator" means any person who fills a
 4 statutorily created position within or related to an
 5 agency or board (other than a board member) and
 6 who is designated by statute as commissioner, deputy
 7 commissioner, assistant commissioner, director, chan-
 8 cellor, chief, executive director, executive secretary,
 9 superintendent, deputy superintendent, or other
 10 administrative title, however designated;

11 (2) "Agency" means any department, division, fund,
 12 office, position, system, survey or other entity of state
 13 government, however designated, transferred to and
 14 incorporated in one of the departments created in
 15 section two of this article;

16 (3) "Board" means any board, commission, author-
 17 ity, council, or other body, however designated,
 18 consisting of two or more members, transferred to and
 19 incorporated in one of the departments created in
 20 section two of this article;

21 (4) "Code" means the code of West Virginia, one
 22 thousand nine hundred thirty-one, as heretofore and
 23 hereafter amended; and

24 (5) "Secretary" means the administrative head of

25 one of the departments created in section two of this
26 article.

27 (b) Although each term defined in subsection (a) of
28 this section is in the singular, the plural of any term
29 shall have the same meaning.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

1 (a) The following agencies and boards, including all
2 of the allied, advisory, affiliated or related entities and
3 funds associated with any such agency or board, are
4 hereby transferred to and incorporated in and shall be
5 administered as a part of the department of
6 administration:

7 (1) Building commission provided for in article six,
8 chapter five of this code;

9 (2) Records management and preservation advisory
10 committee provided for in article eight, chapter five of
11 this code;

12 (3) Public employees retirement system and board of
13 trustees provided for in article ten, chapter five of this
14 code;

15 (4) Public employees insurance agency and public
16 employees advisory board provided for in article
17 sixteen, chapter five of this code;

18 (5) Department of finance and administration and
19 council of finance and administration provided for in
20 article one, chapter five-a of this code;

21 (6) Employee suggestion award board provided for in
22 article one-a, chapter five-a of this code;

23 (7) Governor's mansion advisory committee pro-
24 vided for in article four-a, chapter five-a of this code;

25 (8) Advisory commission to the information system
26 services division in the department of finance and
27 administration provided for in article seven, chapter
28 five-a of this code;

29 (9) Teachers retirement system and teachers'
30 retirement board provided for in article seven-a,
31 chapter eighteen of this code;

32 (10) Commission on uniform state laws provided for
33 in article one-a, chapter twenty-nine of this code;

34 (11) Department of personnel of the civil service
35 system and the civil service commission provided for
36 in article six, chapter twenty-nine of this code;

37 (12) Education and state employees grievance board
38 provided for in article twenty-nine, chapter eighteen
39 and article six-a, chapter twenty-nine of this code;

40 (13) Board of risk and insurance management pro-
41 vided for in article twelve, chapter twenty-nine of this
42 code;

43 (14) Boundary commission provided for in article
44 twenty-three, chapter twenty-nine of this code;

45 (15) Public legal services council provided for in
46 article twenty-one, chapter twenty-nine of this code;

47 (16) Division of personnel which may be hereafter
48 created by the Legislature; and

49 (17) The West Virginia ethics commission which may
50 be hereafter created by the Legislature.

51 (b) The following agencies and boards, including all
52 of the allied, advisory, affiliated or related entities and
53 funds associated with any such agency or board, are
54 hereby transferred to and incorporated in and shall be
55 administered as a part of the department of com-
56 merce, labor and environmental resources:

57 (1) Forest management review commission provided
58 for in article twenty-four, chapter five of this code;

59 (2) Department of commerce provided for in article
60 one, chapter five-b of this code;

61 (3) Office of community and industrial development
62 provided for in article two, chapter five-b of this code;

63 (4) Enterprise zone authority provided for in article
64 two-b, chapter five-b of this code;

65 (5) Office of federal procurement assistance provided
66 for in article two-c, chapter five-b of this code;

67 (6) Export development authority provided for in
68 article three, chapter five-b of this code;

69 (7) Labor-management council provided for in
70 article four, chapter five-b of this code;

71 (8) Industry and jobs development corporation
72 provided for in article one, chapter five-c of this code;

73 (9) Public energy authority and board provided for
74 in chapter five-d of this code;

75 (10) Air pollution control commission provided for in
76 article twenty, chapter sixteen of this code;

77 (11) Resource recovery—solid waste disposal author-
78 ity provided for in article twenty-six, chapter sixteen
79 of this code;

80 (12) Division of forestry and forestry commission
81 provided for in article one-a, chapter nineteen of this
82 code;

83 (13) Department of natural resources and natural
84 resources commission provided for in article one,
85 chapter twenty of this code;

86 (14) Water resources board provided for in article
87 five, chapter twenty of this code;

88 (15) Water development authority and board pro-
89 vided for in article five-c, chapter twenty of this code;

90 (16) Department of labor provided for in article one,
91 chapter twenty-one of this code;

92 (17) Labor-management relations board provided for
93 in article one-b, chapter twenty-one of this code;

94 (18) Public employees occupational safety and health
95 advisory board provided for in article three-a, chapter
96 twenty-one of this code;

97 (19) Minimum wage rate board provided for in
98 article five-a, chapter twenty-one of this code;

99 (20) Board of manufactured housing construction

100 and safety provided for in article nine, chapter
101 twenty-one of this code;

102 (21) Department of energy provided for in article
103 one, chapter twenty-two of this code;

104 (22) Reclamation board of review provided for in
105 article four, chapter twenty-two of this code;

106 (23) Board of appeals provided for in article five,
107 chapter twenty-two of this code;

108 (24) Board of coal mine health and safety and coal
109 mine safety and technical review committee provided
110 for in article six, chapter twenty-two of this code;

111 (25) Shallow gas well review board provided for in
112 article seven, chapter twenty-two of this code;

113 (26) Oil and gas conservation commission provided
114 for in article eight, chapter twenty-two of this code;

115 (27) Board of miner training, education and certifi-
116 cation provided for in article nine, chapter twenty-two
117 of this code;

118 (28) Mine inspectors' examining board provided for
119 in article eleven, chapter twenty-two of this code;

120 (29) Oil and gas inspectors' examining board pro-
121 vided for in article thirteen, chapter twenty-two of
122 this code;

123 (30) Geological and economic survey provided for in
124 article two, chapter twenty-nine of this code;

125 (31) Blennerhassett historical park commission
126 provided for in article eight, chapter twenty-nine of
127 this code;

128 (32) Tourist train and transportation board provided
129 for in article twenty-four, chapter twenty-nine of this
130 code;

131 (33) Economic development authority provided for in
132 article fifteen, chapter thirty-one of this code;

133 (34) Board of members of the forest industries

134 industrial foundation provided for in article sixteen,
135 chapter thirty-one of this code;

136 (35) Department of banking provided for in article
137 two, chapter thirty-one-a of this code;

138 (36) Board of banking and financial institutions
139 provided for in article three, chapter thirty-one-a of
140 this code;

141 (37) Consumer affairs advisory council provided for
142 in article seven, chapter forty-six-a of this code; and

143 (38) Lending and credit rate board provided for in
144 chapter forty-seven-a of this code.

145 (c) The following agencies and boards, including all
146 of the allied, advisory, affiliated or related entities and
147 funds associated with any such agency or board, are
148 hereby transferred to and incorporated in and shall be
149 administered as a part of the department of education
150 and the arts:

151 (1) Library commission provided for in article one,
152 chapter ten of this code;

153 (2) Educational broadcasting authority provided for
154 in article five, chapter ten of this code;

155 (3) Board of regents provided for in article twenty-
156 six, chapter eighteen of this code; and

157 (4) Department of culture and history, archives and
158 history commission and commission on the arts pro-
159 vided for in article one, chapter twenty-nine of this
160 code.

161 (d) The following agencies and boards, including all
162 of the allied, advisory, affiliated or related entities and
163 funds associated with any such agency or board, are
164 hereby transferred to and incorporated in and shall be
165 administered as a part of the department of health and
166 human resources:

167 (1) Human rights commission provided for in article
168 eleven, chapter five of this code;

169 (2) Department of human services provided for in
170 article two, chapter nine of this code;

171 (3) Department of veterans' affairs and veterans'
172 council provided for in article one, chapter nine-a of
173 this code;

174 (4) Department of health and board of health pro-
175 vided for in article one, chapter sixteen of this code;

176 (5) Health care planning council provided for in
177 article two-d, chapter sixteen of this code;

178 (6) Office of emergency medical services and advi-
179 sory council thereto provided for in article four-c,
180 chapter sixteen of this code;

181 (7) Continuum of care board for the elderly, disabled
182 and terminally ill provided for in article five-d,
183 chapter sixteen of this code;

184 (8) Hospital finance authority provided for in article
185 twenty-nine-a, chapter sixteen of this code;

186 (9) Health care cost review authority provided for in
187 article twenty-nine-b, chapter sixteen of this code;

188 (10) Structural barriers compliance board provided
189 for in article ten-f, chapter eighteen of this code;

190 (11) Department of employment security, state
191 advisory council thereto and board of review provided
192 for in chapter twenty-one-a of this code;

193 (12) Office of workers' compensation commissioner,
194 advisory board thereto and workers' compensation
195 appeal board provided for in chapter twenty-three of
196 this code;

197 (13) Commission on aging provided for in article
198 fourteen, chapter twenty-nine of this code;

199 (14) Commission on mental retardation and advisory
200 committee thereto provided for in article fifteen,
201 chapter twenty-nine of this code;

202 (15) Women's commission provided for in article
203 twenty, chapter twenty-nine of this code; and

204 (16) Commission on children and youth provided for
205 in article six-c, chapter forty-nine of this code.

206 (e) The following agencies and boards, including all
207 of the allied, advisory, affiliated or related entities and
208 funds associated with any such agency or board, are
209 hereby transferred to and incorporated in and shall be
210 administered as a part of the department of public
211 safety:

212 (1) Crime victims compensation fund provided for in
213 article two-a, chapter fourteen of this code;

214 (2) Adjutant general's department provided for in
215 article one-a, chapter fifteen of this code;

216 (3) Armory board provided for in article six, chapter
217 fifteen of this code;

218 (4) Military awards board provided for in article one-
219 g, chapter fifteen of this code;

220 (5) Department of public safety and commission on
221 drunk driving prevention provided for in article two,
222 chapter fifteen of this code;

223 (6) Office of emergency services and emergency
224 services advisory council provided for in article five,
225 chapter fifteen of this code;

226 (7) Sheriffs' bureau provided for in article eight,
227 chapter fifteen of this code;

228 (8) Department of corrections provided for in chap-
229 ter twenty-five of this code;

230 (9) Fire commission and state fire administrator
231 provided for in article three, chapter twenty-nine of
232 this code;

233 (10) Regional jail and prison authority provided for
234 in article twenty, chapter thirty-one of this code; and

235 (11) Board of probation and parole provided for in
236 article twelve, chapter sixty-two of this code.

237 (f) The following agencies and boards, including all
238 of the allied, advisory, affiliated or related entities and
239 funds associated with any such agency or board, are

240 hereby transferred to and incorporated in and shall be
241 administered as a part of the department of tax and
242 revenue:

243 (1) Tax department provided for in article one,
244 chapter eleven of this code;

245 (2) Appraisal control and review commission pro-
246 vided for in article one-a, chapter eleven of this code;

247 (3) Office of nonintoxicating beer commissioner
248 provided for in article sixteen, chapter eleven of this
249 code;

250 (4) Board of investments provided for in article six,
251 chapter twelve of this code;

252 (5) Municipal bond commission provided for in
253 article three, chapter thirteen of this code;

254 (6) Racing commission provided for in article
255 twenty-three, chapter nineteen of this code;

256 (7) Lottery commission and position of lottery
257 director provided for in article twenty-two, chapter
258 twenty-nine of this code;

259 (8) Agency of insurance commissioner provided for
260 in article two, chapter thirty-three of this code;

261 (9) Office of alcohol beverage control commissioner
262 provided for in article two, chapter sixty of this code;
263 and

264 (10) Division of professional and occupational
265 licenses which may be hereafter created by the
266 Legislature.

267 (g) The following agencies and boards, including all
268 of the allied, advisory, affiliated or related entities and
269 funds associated with any such agency or board, are
270 hereby transferred to and incorporated in and shall be
271 administered as a part of the department of
272 transportation:

273 (1) Road commission provided for in article two,
274 chapter seventeen of this code;

275 (2) Department of highways provided for in article
276 two-a, chapter seventeen of this code;

277 (3) Turnpike commission provided for in article
278 sixteen-a, chapter seventeen of this code;

279 (4) Department of motor vehicles provided for in
280 article two, chapter seventeen-a of this code;

281 (5) Driver's licensing advisory board provided for in
282 article two, chapter seventeen-b of this code;

283 (6) Motorcycle safety standards and specifications
284 board provided for in article fifteen, chapter
285 seventeen-c of this code;

286 (7) Aeronautics commission provided for in article
287 two-a, chapter twenty-nine of this code;

288 (8) Railroad maintenance authority provided for in
289 article eighteen, chapter twenty-nine of this code; and

290 (9) Port authority which may be hereafter created
291 by the Legislature.

292 (h) Except for such powers, authority and duties as
293 have been delegated to the secretaries of the
294 departments by the provisions of section two of this
295 article, the existence of the position of administrator
296 and of the agency and the powers, authority and
297 duties of each administrator and agency shall not be
298 affected by the enactment of this chapter.

299 (i) Except for such powers, authority and duties as
300 have been delegated to the secretaries of the
301 departments by the provisions of section two of this
302 article, the existence, powers, authority and duties of
303 boards and the membership, terms and qualifications
304 of members of such boards shall not be affected by the
305 enactment of this chapter, and all boards which are
306 appellate bodies or were otherwise established to be
307 independent decision-makers shall not have their
308 appellate or independent decision-making status
309 affected by the enactment of this chapter.

310 (j) Wherever elsewhere in this code, in any act, in
311 general or other law, in any rule or regulation, or in

312 any ordinance, resolution or order, reference is made
 313 to any department transferred to and incorporated in
 314 a department created in section two, article one of this
 315 chapter, such reference shall henceforth be read,
 316 construed and understood to mean a division of the
 317 appropriate department so created, and any such
 318 reference elsewhere to a division of a department so
 319 transferred and incorporated shall henceforth be read,
 320 construed and understood to mean a section of the
 321 appropriate division of the department so created.

**§5F-2-2. Power and authority of secretary of each
 department.**

1 (a) Notwithstanding any other provision of this code
 2 to the contrary, the secretary of each department shall
 3 have plenary power and authority within and for the
 4 department to:

5 (1) Employ and discharge within the office of the
 6 secretary such employees as may be necessary to carry
 7 out the functions of the secretary, which employees
 8 shall serve at the will and pleasure of the secretary.

9 (2) Cause the various agencies and boards to be
 10 operated effectively, efficiently and economically, and
 11 develop goals, objectives, policies and plans that are
 12 necessary or desirable for the effective, efficient and
 13 economical operation of the department;

14 (3) Eliminate or consolidate positions, other than
 15 positions of administrators or positions of board
 16 members, and name a person to fill more than one
 17 position;

18 (4) Delegate, assign, transfer or combine
 19 responsibilities or duties to or among employees, other
 20 than administrators or board members.

21 (5) Reorganize internal functions or operations;

22 (6) Formulate comprehensive budgets for consider-
 23 ation by the governor, and transfer within the depart-
 24 ment funds appropriated to the various agencies of the
 25 department which are not expended due to cost
 26 savings resulting from the implementation of the

27 provisions of this chapter: *Provided*, That no more
28 than twenty-five percent of the funds appropriated to
29 any one agency or board may be transferred to other
30 agencies or boards within the department: *Provided*,
31 *however*, That no funds may be transferred from a
32 special revenue account, dedicated account, capital
33 expenditure account or any other account or funds
34 specifically exempted by the Legislature from transfer,
35 except that the use of appropriations from the state
36 road fund transferred to the office of the secretary of
37 the department of transportation is not a use other
38 than the purpose for which such funds were dedicated
39 and is permitted: *Provided further*, That if the Legis-
40 lature by subsequent enactment consolidates agencies,
41 boards or functions, the secretary may transfer the
42 funds formerly appropriated to such agency, board or
43 function in order to implement such consolidation.
44 The authority to transfer funds under this section
45 shall expire on the thirtieth day of June, one thousand
46 nine hundred eighty-nine.

47 (7) Enter into contracts or agreements requiring the
48 expenditure of public funds, and authorize the expen-
49 diture or obligating of public funds as authorized by
50 law: *Provided*, That the powers granted to the secre-
51 tary to enter into contracts or agreements and to make
52 expenditures or obligations of public funds under this
53 provision shall not exceed or be interpreted as author-
54 ity to exceed the powers heretofore granted by the
55 Legislature to the various commissioners, directors or
56 board members of the various departments, agencies
57 or boards that comprise and are incorporated into each
58 secretary's department under this chapter;

59 (8) Acquire by lease or purchase property of what-
60 ever kind or character, and convey or dispose of any
61 property of whatever kind or character as authorized
62 by law: *Provided*, That the powers granted to the
63 secretary to lease, purchase, convey or dispose of such
64 property shall not exceed or be interpreted as author-
65 ity to exceed the powers heretofore granted by the
66 Legislature to the various commissioners, directors or
67 board members of the various departments, agencies

68 or boards that comprise and are incorporated into each
69 secretary's department under this chapter.

70 (9) Conduct internal audits;

71 (10) Supervise internal management;

72 (11) Promulgate rules, as defined in section two,
73 article one, chapter twenty-nine-a of this code, to
74 implement and make effective the powers, authority
75 and duties granted and imposed by the provisions of
76 this chapter, such promulgation to be in accordance
77 with the provisions of chapter twenty-nine-a of this
78 code;

79 (12) Grant or withhold written consent to the
80 proposal of any rule, as defined in section two, article
81 one, chapter twenty-nine-a of this code, by any
82 administrator, agency or board within the department,
83 without which written consent no proposal of a rule
84 shall have any force or effect;

85 (13) Delegate to administrators such duties of the
86 secretary as the secretary may deem appropriate from
87 time to time to facilitate execution of the powers,
88 authority and duties delegated to the secretary; and

89 (14) Take any other action involving or relating to
90 internal management not otherwise prohibited by law.

91 (b) The secretaries of the departments hereby
92 created shall engage in a comprehensive review of the
93 practices, policies, and operations of the agencies and
94 boards within their departments to determine the
95 feasibility of cost reductions and increased efficiency
96 which may be achieved therein, including, but not
97 limited to, the following:

98 (1) The elimination, reduction and restrictions in the
99 use of the state's vehicle or other transportation fleet;

100 (2) The elimination, reduction and restrictions in the
101 preparation of state government publications,
102 including annual reports, informational materials, and
103 promotional materials;

104 (3) The termination or renegotiation of terms

105 contained in lease agreements between the state and
106 private sector for offices, equipment and services;

107 (4) The adoption of appropriate systems for account-
108 ing, including consideration of an accrual basis finan-
109 cial accounting and reporting system;

110 (5) The adoption of revised procurement practices to
111 facilitate cost effective purchasing procedures,
112 including consideration of means by which domestic
113 businesses may be assisted to compete for state
114 government purchases; and

115 (6) The computerization of the functions of the state
116 agencies and boards.

117 (c) Notwithstanding the provisions of subsections (a)
118 and (b) of this section, none of the powers granted to
119 the secretaries herein shall be exercised by the
120 secretary if to do so would violate or be inconsistent
121 with the provisions of any federal law or regulation,
122 any federal-state program or federally delegated
123 program or jeopardize the approval, existence or
124 funding of any such program, and the powers granted
125 to the secretary shall be so construed.

126 (d) The layoff and recall rights of employees within
127 the classified service of the state as provided in
128 subsections five and six, section ten, article six,
129 chapter twenty-nine of this code shall be limited to the
130 organizational unit within the agency or board and
131 within the promotional series of the agency or board
132 in which the employee was employed prior to the
133 agency or board's transfer or incorporation into the
134 department. The duration of recall rights provided in
135 this subsection shall be limited to two years or the
136 length of tenure, whichever is less. Except as provided
137 in this subsection, nothing contained in this section
138 shall be construed to abridge the rights of employees
139 within the classified service of the state as provided in
140 sections ten and ten-a, article six, chapter twenty-nine
141 of this code or the right of classified employees of the
142 board of regents to the procedures and protections set
143 forth in article twenty-six-b, chapter eighteen of this
144 code.

§5F-2-3. Administrators; appointment; oath; bond; compensation.

1 (a) Notwithstanding any other provision of this code
2 (including subsections (h) and (i), section one of this
3 article) to the contrary, each administrator required
4 by other provisions of this code to be appointed by the
5 governor shall:

6 (1) Continue to be appointed by the governor by and
7 with the advice and consent of the Senate and each
8 such administrator shall serve at the will and pleasure
9 of the governor, and the governor may appoint a
10 person to fill more than one such position of adminis-
11 trator and may appoint a secretary to fill one or more
12 positions of such administrator, but each person
13 appointed as such an administrator must possess
14 whatever qualifications are elsewhere specified in this
15 code as being required for appointment to such
16 position;

17 (2) Take the oath of office or affirmation prescribed
18 by section five, article four of the constitution, and
19 such oath shall be certified by the person who
20 administers the same and filed in the office of the
21 secretary of state;

22 (3) Give bond in the penalty of fifteen thousand
23 dollars conditioned for the faithful performance of the
24 duties of the office, which bond shall be approved by
25 the attorney general as to form and by the secretary
26 as to sufficiency. The surety of such bond may be a
27 bonding or surety company, in which case the pre-
28 mium shall be paid out of the appropriation made for
29 the administration of the department; and

30 (4) Receive an annual salary as shall be fixed from
31 time to time by the governor and secretary within the
32 limit of funds appropriated to the department and
33 available for such purpose.

34 (b) Each administrator required by other provisions
35 of this code to be appointed in any manner other than
36 by the governor shall continue to be appointed, shall
37 take such oath of office, give such bond and receive

38 such salary as shall be so specified by such other
39 provisions of this code.

§5F-2-4. Transfer of records, property and personnel.

1 All records, assets and property, of whatever kind or
2 character, owned by or utilized in the administration
3 of the agencies and boards and all of the personnel
4 utilized in the administration of such agencies and
5 boards, including the administrators, are hereby
6 transferred to the respective department to and in
7 which such agencies and boards are transferred and
8 incorporated.

ARTICLE 3. FUTURE REORGANIZATION; SEVERABILITY.

§5F-3-1. Recommendations for further reorganization.

1 The governor shall submit to the Legislature on or
2 before the first day of January, one thousand nine
3 hundred ninety-one, a report setting forth the reorga-
4 nization implemented by executive action pursuant to
5 this chapter and resulting cost savings as determined
6 by the governor, any recommendations for further
7 reorganization requiring legislative action and drafts
8 of recommended legislation to implement the reorga-
9 nization requiring legislative action.

§5F-3-2. Operative dates.

1 The provisions of this chapter shall become opera-
2 tive as to any department created in section two,
3 article one of this chapter upon the appointment of the
4 secretary of such department.

§5F-3-3. Severability.

1 If any provision of this chapter or the application
2 thereof to any person or circumstance is held
3 unconstitutional or invalid, such unconstitutionality or
4 invalidity shall not affect other provisions or
5 applications of the chapter, and to this end the
6 provisions of this chapter are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled

Frederick L. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Irvin C. Maclean
.....
Clerk of the Senate

Donald Z. Kopp
.....
Clerk of the House of Delegates

Larry Tucker
.....
President of the Senate

Robert H. Parker
.....
Speaker House of Delegates

The within *is approved* this the *7th*
day of *February* 1989

Winston Caperton
.....
Governor

WGCTV
PRESENTED TO THE

GOVERNOR

Date 2/3/89

Time 11:15 a.m.