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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

HOUSE BILL No. 2860

(By ~~Mr.~~ Del. Satter)

— ● —

Passed April 8, 1989

In Effect From Passage

ENROLLED

H. B. 2860

(By DELEGATE SATTES)

[Passed April 8, 1989; in effect from passage.]

AN ACT to amend and reenact section one, article three, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section one, article five of said chapter; to amend and reenact section four, article nine of said chapter; to amend and reenact section seven, article ten of said chapter; to amend and reenact section three, article one, chapter five-a of said code; to amend and reenact section four, article twenty-nine-c, chapter sixteen of said code; to amend and reenact section ten, article three, chapter twenty-nine-a of said code; to amend chapter twenty; to amend and reenact section eleven, article three-a of said chapter twenty-nine-a; to amend and reenact section three, article five-c, chapter forty-nine of said code, all relating to revising membership of several statutory legislative committees and method by which membership is to be determined; membership of the commission on special investigations; proration of membership of the legislative commission on pensions and retirement; membership of the joint committee on government operations; membership of the council of finance and administration; composition of the legislative task force on uncompensated health care and medicaid expenditure; meeting dates, approval of joint committee on government and finance; reports to joint committee on government and finance and Legislature; compensation of members; membership of the legisla-

tive rule-making review committee; membership of the legislative oversight commission on education accountability; termination; composition of the legislative commission on juvenile law; terms of members.

Be it enacted by the Legislature of West Virginia:

That section one, article three; section one, article five; section four, article nine; and section seven, article ten, all of chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section three, article one, chapter five-a of said code be amended and reenacted; that section four, article twenty-nine-c, chapter sixteen of said code be amended and reenacted; that section ten, article three, chapter twenty-nine-a of said code be amended and reenacted; that section eleven, article three-a of said chapter twenty-nine-a be amended and reenacted; and that section three, article five-c, chapter forty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 3. JOINT COMMITTEE ON GOVERNMENT AND FINANCE.

§4-3-1. Continued as statutory body; composition; appointment and terms of members.

1 The joint committee on government and finance,
2 heretofore existing under a joint rule of the Senate and
3 House of Delegates, is hereby continued as a statutory
4 body. This committee shall be composed of seven
5 members of the Senate, six of whom shall be appointed
6 by the president of the Senate, and seven members of
7 the House of Delegates, six of whom shall be appointed
8 by the speaker of the House of Delegates. The six
9 members appointed by the president of the Senate shall
10 include the majority leader of the Senate, the minority
11 leader of the Senate, the chairman of the Senate
12 committee on the judiciary and the chairman of the
13 Senate committee on finance. The six members ap-
14 pointed by the speaker of the House of Delegates shall
15 include the majority leader of the House of Delegates,
16 the minority leader of the House of Delegates, the
17 chairman of the house committee on the judiciary and

18 the chairman of the house committee on finance. The
19 president of the Senate and the speaker of the House of
20 Delegates shall be members of the committee and
21 cochairmen thereof. Not more than five members of the
22 committee from each house shall be members of the
23 same political party: *Provided*, That in the event the
24 membership of a political party is less than fifteen
25 percent in the House of Delegates or Senate, then the
26 membership of that political party from the legislative
27 house with less than fifteen percent membership may be
28 one from that house. The members shall serve until their
29 successors shall have been appointed as heretofore
30 provided.

ARTICLE 5. COMMISSION ON SPECIAL INVESTIGATIONS.

§4-5-1. Commission continued as “commission on special investigations”; composition; appointment and terms of members.

1 The purchasing practices and procedures commission,
2 heretofore created, shall continue in existence but on
3 and after the effective date of this section shall be
4 named and designated the “commission on special
5 investigations.” The commission shall continue to be
6 composed of five members of the Senate, to be appointed
7 by the president thereof, no more than three of whom
8 shall be from the same political party; and five members
9 of the House of Delegates, to be appointed by the
10 speaker thereof, no more than three of whom shall be
11 appointed from the same political party: *Provided*, That
12 in the event the membership of a political party is less
13 than fifteen percent in the House of Delegates or Senate,
14 then the membership of that political party from the
15 legislative house with less than fifteen percent member-
16 ship may be one from that house. The commission shall
17 be headed by two cochairmen, one to be selected by and
18 from the members appointed from the Senate, and one
19 to be selected by and from the members appointed from
20 the House of Delegates. All members of the commission
21 shall serve until their successors shall have been
22 appointed as heretofore provided.

ARTICLE 9. LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.

§4-9-4. Appointment of members; terms.

1 The commission shall consist of three members of the
2 Senate to be appointed by the president of the Senate
3 and three members of the House of Delegates to be
4 appointed by the Speaker of the House, and the governor
5 shall appoint three members, one from labor, one from
6 the business community and one from the general
7 public. No more than two of the three members
8 appointed by the president of the Senate and the speaker
9 of the House, respectively, may be members of the same
10 political party. The first appointed members of the
11 commission shall serve for a term expiring on the
12 thirtieth day of June in the year of the next succeeding
13 regular session of the Legislature. At the commence-
14 ment of such next succeeding regular session and at the
15 commencement of regular sessions every two years
16 thereafter, members of the commission shall be ap-
17 pointed for two year terms beginning the first day of
18 July in the year of each such regular session. Vacancies
19 on the commission shall be filled for unexpired terms
20 in the same manner as appointments to the commission.

ARTICLE 10. THE WEST VIRGINIA SUNSET LAW.**§4-10-7. Joint committee on government operations
created; membership; compensation and ex-
penses; meetings.**

1 There is hereby created a statutory body to be known
2 as the joint committee on government operations. Said
3 committee shall be composed of five members of the
4 Senate, to be appointed by the president thereof, no
5 more than three of whom shall be appointed from the
6 same political party; five members of the House of
7 Delegates, to be appointed by the speaker thereof, no
8 more than three of whom shall be appointed from the
9 same political party: *Provided*, That in the event the
10 membership of a political party is less than fifteen
11 percent in the House of Delegates or Senate, that the
12 membership of that political party from the legislative
13 house with less than fifteen percent membership may be
14 one from that house; and five citizens of this state who
15 are not legislators, public officials or public employees,

16 to be appointed by the governor to serve at his will and
17 pleasure, not more than three of whom shall be
18 appointed from the same political party, and at least one
19 of whom shall reside in each congressional district of
20 this state. All citizen members shall sign a conflict of
21 interest statement. The committee shall be headed by
22 two cochairmen, one to be selected by the president of
23 the Senate from the members appointed from the
24 Senate, and one to be selected by the speaker of the
25 House of Delegates from the members appointed from
26 the House of Delegates. All members of the committee
27 shall serve until their successors shall have been
28 appointed as heretofore provided. Members of the
29 committee shall receive such compensation and reim-
30 bursement for expenses in connection with performance
31 of interim duties between regular sessions of the
32 Legislature as may be authorized by the citizens
33 legislative compensation commission established by
34 section thirty-three, article six of the constitution of
35 West Virginia. Each citizen member of the committee
36 shall receive thirty-five dollars per diem for each day
37 or substantial portion thereof that he is engaged in the
38 work of the committee, in addition to reimbursement for
39 his necessary expenses incurred in the performance of
40 his duties under this article, such reimbursement to be
41 subject to the same limitations as govern the expenses
42 of the legislative members of the committee.
43 Compensation and expenses shall be paid from an
44 appropriation to be made expressly for the committee,
45 but if no such appropriation be made or the total amount
46 appropriated has been expended, such expenses shall be
47 paid from the appropriation under "Account No. 103 for
48 Joint Expenses," but no expense of any kind whatever
49 payable under said Account No. 103 for joint expenses
50 shall be incurred unless first approved by the joint
51 committee on government and finance. The committee
52 shall meet upon call of the cochairmen or either of them
53 and may meet at any time, both during sessions of the
54 Legislature and in the interim.

**CHAPTER 5A. DEPARTMENT OF FINANCE
AND ADMINISTRATION.**

ARTICLE 1. DEPARTMENT OF FINANCE AND ADMINISTRATION.

§5A-1-3. Council of finance and administration.

1 The council of finance and administration is hereby
2 created and shall be composed of ten members, four of
3 whom shall serve ex officio and six of whom shall be
4 appointed as herein provided. The ex officio members
5 shall be the commissioner of the department of finance
6 and administration, the attorney general or his designee,
7 the state treasurer or his designee and the state auditor
8 or his designee; such designees being authorized voting
9 ones. From the membership of the Legislature, the
10 president of the Senate shall appoint three senators as
11 members of the council, not more than two of whom
12 shall be members of the same political party, and the
13 speaker of the House shall appoint three delegates as
14 members of the council, not more than two of who shall
15 be members of the same political party. Members of the
16 council appointed by the president of the Senate and the
17 speaker of the House shall serve at the will and pleasure
18 of the officer making their appointment. The commis-
19 sioner of finance and administration shall serve as
20 chairman of the council. Meetings of the council shall
21 be upon call of the chairman or a majority of the
22 members thereof. It shall be the duty of the chairman
23 to call no less than four meetings in each fiscal year, one
24 in each quarter, or more often as necessary, and all
25 meetings shall be open to the public. All meetings of the
26 council shall be held at the capitol building in a suitable
27 committee room which shall be made available by the
28 Legislature for such purpose: *Provided further*, That the
29 second quarterly meeting in each fiscal year shall be
30 held in November and shall be a joint meeting with the
31 joint committee on government and finance of the
32 Legislature called jointly by the president of the Senate,
33 speaker of the House and commissioner of finance and
34 administration.

35 The council shall serve the department of finance and
36 administration in an advisory capacity for purposes of
37 reviewing the performance of the administrative and
38 fiscal procedures of the state, including the oversight of

39 all federal funds, and shall have the following duties:

40 (1) To advise with the commissioner in respect to
41 matters of budgetary intent and efficiency, including
42 budget bill and budget document detail and format;

43 (2) To advise with the commissioner concerning such
44 studies of government and administration concerning
45 fiscal policy as it may consider appropriate;

46 (3) To advise with the commissioner in the prepara-
47 tion of studies designed to provide long-term capital
48 planning and finance for state institutions and agencies;
49 and

50 (4) To advise with the commissioner in respect to the
51 application for, and receipt and expenditure of, antic-
52 ipated or unanticipated federal funds.

53 The appointed, non-ex officio members of the council
54 shall be entitled to receive such compensation and
55 reimbursement for expenses in connection with perfor-
56 mance of their duties, during interim periods, if not
57 otherwise receiving the same for such identical periods,
58 as is authorized by the applicable sections of article two-
59 a, chapter four of the code in respect to performance of
60 duties either within the state or, if deemed necessary,
61 out-of-state. Such compensation and expenses shall be
62 incurred and paid only after approval by the joint
63 committee on government and finance.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 29C. INDIGENT CARE.

§16-29C-4. Legislative study; appointment of members; expenses; reports; termination.

1 Not later than the first day of June, one thousand nine
2 hundred eighty-five, the president of the Senate and
3 speaker of the House of Delegates of the West Virginia
4 Legislature shall appoint a legislative task force on
5 uncompensated health care and medicaid expenditures
6 which shall meet, study and make recommendations as
7 herein provided.

8 The task force shall be composed of three members

9 of the Senate appointed by the president from the
10 membership of the Senate standing committee on health
11 and human resources, three members of the House of
12 Delegates appointed by the speaker from the member-
13 ship of the House of Delegates standing committee on
14 health and human resources, and a number of citizens
15 appointed jointly by the president and speaker which,
16 in their discretion, adequately provides for the approp-
17 riate representation of the interests of the providers of
18 health care services, the providers of health care
19 insurance, state departments involved in the administra-
20 tion of health care and health care related programs and
21 the citizens of this state. Of the members of the Senate
22 appointed by the president, not more than two shall be
23 from the same political party. Of the members of the
24 House of Delegates appointed by the speaker, not more
25 than two shall be from the same political party.

26 Members originally appointed to the task force shall
27 serve for terms beginning on the date of appointment
28 and ending on the thirtieth day of June, one thousand
29 nine hundred ninety, unless sooner replaced by the
30 president or the speaker as applicable, or, in the
31 discretion of the president and the speaker, unless the
32 work of the task force is completed or the need for the
33 task force no longer exists prior to that date. The task
34 force shall cease to exist on the thirtieth day of June,
35 one thousand nine hundred ninety.

36 The task force shall meet on such dates as may be
37 approved by the joint committee on government and
38 finance for the regular meetings of its subcommittees
39 unless approval is first obtained from the joint commit-
40 tee on government and finance for additional meetings.
41 The task force shall conduct studies on the amount of
42 funds expended by hospitals and other health care
43 providers of this state for services to persons who are
44 unable to pay for those services and for which they
45 receive no other form of reimbursement, the extent to
46 which persons in this state forego needed medical
47 services because of insufficient income and assets to pay
48 for those services, the extent to which the state is
49 maximizing available federal programs and moneys in

50 providing health care services to the citizens of this
51 state, the operation of the programs and funds created
52 by this article and the roles of the public, private and
53 private nonprofit sectors in providing health care
54 services to the citizens of this state. The task force shall
55 also study the state medicaid program in order to
56 determine if the state medicaid agency, as the payor of
57 last resort, is expending maximum effort to identify
58 alternate private insurance resources for medicaid
59 beneficiaries and shall study the feasibility and financial
60 impact upon the state of assuring increased access to
61 medicaid beneficiaries to primary health care in the
62 non-hospital setting by requiring enrollment in a
63 primary care clinic program, if available, and of the
64 establishment of different and lesser schedules of
65 payment for primary health services delivered by a
66 hospital emergency room as compared to the schedule
67 of payments for emergency room services of a true
68 medical emergency nature. The task force shall make
69 such recommendations as it deems appropriate to
70 address the needs identified in the studies.

71 The task force shall file an interim report with the
72 joint committee on government and finance and the
73 Legislature on the date of the last meeting of the joint
74 committee on government and finance prior to com-
75 mencement of the regular session of the Legislature in
76 each year before the final report of the task force is filed
77 with the joint committee on government and finance and
78 the Legislature on or before the thirtieth day of June,
79 one thousand nine hundred ninety.

80 The members of the task force shall be entitled to
81 compensation at the rate authorized for members of the
82 Legislature participating in legislative interim meetings
83 and to reimbursement for reasonable and necessary
84 expenses actually incurred in attending meetings of the
85 task force, except that any employee of the state
86 appointed to the task force is not entitled to such
87 compensation. Funds necessary for the work of the task
88 force shall be paid from joint appropriations to the
89 Senate and House of Delegates but no such funds shall
90 be spent or obligations incurred in the conduct of such

91 work without prior approval of the joint committee on
92 government and finance.

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES.

ARTICLE 3. RULE MAKING.

§29A-3-10. Creation of a legislative rule-making review committee.

1 (a) There is hereby created a joint committee of the
2 Legislature, known as the legislative rule-making
3 review committee, to review all legislative rules of the
4 several agencies and such other rules as the committee
5 deems appropriate. The committee shall be composed of
6 six members of the Senate, appointed by the president
7 of the Senate, and six members of the House of
8 Delegates, appointed by the speaker of the House of
9 Delegates. In addition, the president of the Senate and
10 the speaker of the House of Delegates shall be ex officio
11 nonvoting members of the committee and shall design-
12 ate the cochairmen. Not more than four of the voting
13 members of the committee from each house shall be
14 members of the same political party: *Provided*, That in
15 the event the membership of a political party is less than
16 fifteen percent in the House of Delegates or Senate, then
17 the membership of that political party from the
18 legislative house with less than fifteen percent member-
19 ship may be one from that house. The members shall
20 serve until their successors shall have been appointed as
21 heretofore provided. Members of the committee shall
22 receive such compensation and expenses as provided in
23 article two-a, chapter four of this code. Such expenses
24 and all other expenses, including those incurred in the
25 employment of legal, technical, investigative, clerical,
26 stenographic, advisory and other personnel shall be paid
27 from an appropriation to be made expressly for the
28 legislative rule-making review committee, but if no such
29 appropriation be made, such expenses shall be paid
30 from the appropriation under "Account No. 103 for Joint
31 Expenses," but no expense of any kind whatever payable
32 under said Account No. 103 for joint expenses shall be
33 incurred unless first approved by the joint committee on

34 government and finance. The committee shall meet at
35 any time, both during sessions of the Legislature and in
36 the interim.

37 (b) The committee may adopt such rules of procedure
38 as it considers necessary for the submission, presenta-
39 tion and consideration of rules.

ARTICLE 3A. EDUCATION RULE MAKING.

**§29A-3A-11. Creation of a legislative oversight commis-
sion on education accountability;
termination.**

1 (a) There is hereby created a joint commission of the
2 Legislature, known as the legislative oversight commis-
3 sion on education accountability, to review all legislative
4 rules of the board and such other rules as the commis-
5 sion deems appropriate. The commission shall be
6 composed of three members of the Senate, appointed by
7 the president of the Senate, and three members of the
8 House of Delegates, appointed by the speaker of the
9 House of Delegates. No more than two of the three
10 members appointed by the president of the Senate and
11 the speaker of the House, respectively, may be members
12 of the same political party. In addition, the president of
13 the Senate and the speaker of the House of Delegates
14 shall be ex officio nonvoting members of the commission
15 and shall designate the cochairmen. At least one of the
16 Senate members and one of the House members shall
17 be members of the committee on education of the Senate
18 and House, respectively, and at least one of the Senate
19 members and at least one of the House members shall
20 be a member of the committee on finance of the Senate
21 and House, respectively. The members shall serve until
22 their successors shall have been appointed as heretofore
23 provided. Members of the commission shall receive such
24 compensation and expenses as provided in article two-
25 a, chapter four of this code. Such expenses and all other
26 expenses, including those incurred in the employment of
27 legal, technical, investigative, clerical, stenographic,
28 advisory and other personnel shall be paid from an
29 appropriation to be made expressly for the legislative
30 oversight commission on education accountability, but if

31 no such appropriation be made, such expenses shall be
32 paid from the appropriation under "Account No. 103 for
33 Joint Expenses," but no expense of any kind whatever
34 payable under said Account No. 103 for joint expenses
35 shall be incurred unless first approved by the joint
36 committee on government and finance. The commission
37 shall meet at any time, both during sessions of the
38 Legislature and in the interim.

39 (b) The commission may adopt such rules of proce-
40 dure as it considers necessary for the submission,
41 presentation and consideration of rules.

42 (c) The legislative oversight commission on education
43 accountability shall be terminated on the first day of
44 July, one thousand nine hundred ninety-two, unless
45 review of its functions shall be undertaken pursuant to
46 the provisions of sections nine, ten and eleven, article
47 ten, chapter four of this code. If such commission is
48 terminated pursuant to this subsection, any report
49 required to be submitted to them shall instead be
50 submitted to the joint committee on education of the
51 Legislature.

CHAPTER 49. CHILD WELFARE.

ARTICLE 5C. LEGISLATIVE COMMISSION ON JUVENILE LAW.

§49-5C-3. Appointment of members; terms.

1 The commission shall consist of:

2 (1) Three members of the Senate to be appointed by
3 the president of the Senate and three members of the
4 House of Delegates to be appointed by the speaker of the
5 House. No more than two of the three members
6 appointed by the president of the Senate and the speaker
7 of the House, respectively, shall be members of the same
8 political party.

9 (2) The commissioner of the department of human
10 services, the commissioner of corrections and the state
11 director of health who shall serve as ex officio members.

12 (3) Two persons trained and employed as school
13 guidance counselors, one to be appointed by the presi-
14 dent of the Senate and one to be appointed by the

15 speaker of the house.

16 The first appointed members of the commission shall
17 serve for a term expiring on the thirtieth day of June
18 in the year of the next succeeding regular session of the
19 Legislature. At the commencement of such next suc-
20 ceeding regular session and at the commencement of
21 regular sessions every two years thereafter, members of
22 the commission shall be appointed for two-year terms
23 beginning the first day of July in the year of each such
24 regular session. Vacancies on the commission shall be
25 filled for unexpired terms in the same manner as
26 appointments to the commission.

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

Frederic L. Parks

Chairman Senate Committee

J. L. Latties

Chairman House Committee

Originating in the House.

Takes effect from passage.

Paul C. Mullis

Clerk of the Senate

Donald L. Hypp

Clerk of the House of Delegates

Sam R. Tucker

President of the Senate

Boyd R. Caldwell

Speaker of the House of Delegates

The within *is approved* this the *27th*
day of *April*, 1989.

Walter B. Gorton

Governor

PRESENTED TO THE

GOVERNOR

Date

4/24/89

Time

2:23