WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

---

ENROLLED

Com. Sub. for
HOUSE BILL No. 4799

(By Delegate Phillips)

---

Passed March 10, 1990

In Effect July 1, 1990
AN ACT to repeal article three, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section five, article two of said chapter five-b; to amend said chapter five-b by adding thereto a new article, designated article two-d; to amend and reenact sections one, two, four, five, six, six-a, seven, eight, ten, twelve, twelve-b, thirteen, fifteen, seventeen and eighteen, article one of chapter five-b; to amend and reenact section three, article two, chapter five-b; and to amend article two of said chapter by adding thereto a new section, designated section two-a; all relating to creating the division of tourism and parks; short title; legislative findings; sections created; appointment; compensation and qualifications of commissioner; general powers of the division; sections created; continuation of civil service coverage for persons employed in the former department of commerce; program and policy action statement; submission to joint committee on government and finance; section of tourism; purpose; powers and duties generally; section of advertising and promotion; purpose; powers and duties generally; section of product marketing; purpose; powers and duties generally; section of parks and recreation created; duties; records and equipment previously transferred
from the department of natural resources to the department of commerce; funds; conveyance of Grandview State Park to the national park service; governor; director of the division of natural resources and director of the division of tourism and parks; section of parks and recreation; incorporating Moncove Lake public hunting and fishing area as a state park to be named Moncove Lake State Park; contracts for operation of commissaries; renewal option; purchase of investment and price determination; master plan development; public hearing on proposed contracts; promulgation of rules; purpose; powers and duties generally; acquisition of former railroad subdivision for establishment of Greenbrier River trail; development; protection; operation and maintenance of trail; correlation of projects and services; sunset provision; governor's office of community and industrial development; general powers of the office; divisions created; creation of the West Virginia guaranteed work force program; short title; definitions; development of business and industrial training program; funding of program; program activities; reports to Legislature and governor and joint commission on vocational, technical, and occupational education; and marketing of program.

Be it enacted by the Legislature of West Virginia:

That article three, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section five, article two of said chapter five-b be repealed; said chapter five-b be amended by adding thereto a new article, designated article two-d; that sections one, two, four, five, six, six-a, seven, eight, ten, twelve, twelve-b, thirteen, fifteen, seventeen and eighteen, article one, chapter five-b be amended and reenacted; that section three, article two of said chapter five-b be amended and reenacted; and that article two of said chapter be amended by adding thereto a new section, all to read as follows:

ARTICLE 1. DIVISION OF TOURISM AND PARKS.

§5B-1-1. Short title.

1 This chapter shall be known and may be cited as “The Economic Development Act of 1990.”
§5B-1-2. Legislative findings.

It is hereby determined and declared as a matter of legislative finding:

(a) That seriously high unemployment exists in many areas of the state;

(b) That economic insecurity due to unemployment undermines the health, safety and general welfare of the people of the entire state;

(c) That the absence of employment and business opportunities for youth is a serious threat and has resulted in families leaving the state to find opportunities elsewhere, adversely affecting the tax base of the state, counties and municipalities;

(d) That the present and future welfare of the people of the state require as a public purpose a renewed effort toward the promotion and development of business enterprises with potential to help;

(e) That the legislative and executive branches of state government must seek out and recruit exceptionally qualified individuals and organizations to administer, advise and manage the state's economic development programs;

(f) That the state's leaders of business, labor, education and government must cooperate and advance together on common ground, with the common purpose of the economic revitalization of our state; and

(g) That the industrial products and natural resources of the state need to be more thoroughly managed, developed and promoted and the various industries better coordinated and developed to provide a healthy industry environment that will decrease unemployment, promote the use of, while also protecting the renewable natural resources of West Virginia, and otherwise provide for the economic revitalization of our state.

In recognition of these findings, it is in the best interest of the citizens of this state to transfer the management and responsibility of the division of parks and recreation to the division of tourism and parks.
§5B-1-4. Division created; appointment, compensation and qualifications of commissioner.

Effective the first day of July, one thousand nine hundred ninety, there is hereby created in the executive branch of state government a division of tourism and parks and the office of commissioner of tourism and parks. The commissioner shall be the chief executive officer of the division with control and supervision of its operations and shall be appointed by the governor with the advice and consent of the Senate and shall be paid a salary of sixty-five thousand dollars a year. The commissioner shall have control and supervision of the division and shall be responsible for the work of each of its sections. Under the control and supervision of the commissioner, each section director shall be responsible for the work of his section. The commissioner shall have the authority to employ such assistants as may be necessary for the efficient operation of the division.

The commissioner may appoint such deputy commissioners and assign them such duties as may be necessary for the efficient management and operation of the division.

§5B-1-5. General powers of the division.

(a) The division of tourism and parks shall have the authority and duty to:

(1) Promote, encourage and facilitate the expansion and development of markets for West Virginia products and services and the state's national and international image and prestige by any and all reasonable methods;

(2) Compile periodically a census of the crafts, trades, skills and occupations of all adult persons in the state, in cooperation with other agencies, and analyze and publish the information in such form as to be most valuable to business and industry;

(3) Advertise and publicize the material, economic quality of life, recreational and other advantages of the state which render it a desirable place for commerce and residence;
(4) Collect, compile and distribute information and literature concerning the advantages and attractions of the state, its historic and scenic points of interest and the highway, transportation and other facilities of the state;

(5) Plan and carry out a program of information and publicity designed to attract to West Virginia tourists, visitors and other interested persons from outside the state;

(6) Manage the state's park and recreation system for the benefit of the people of this state, and effectively promote and advertise the same to increase public knowledge and use thereof;

(7) To acquire for the state in the name of the division of tourism and parks by purchase, lease or agreement, or accept or reject for the state, in the name of the division, gifts, donations, contributions, bequests or devises of money, security or property, both real and personal, and any interest in such property, including lands and water, for state park or recreational areas for the purpose of providing public recreation: Provided, That any sale, exchange or transfer of such property shall be subject to the procedures of article one-a, chapter twenty of this code: Provided, however, That no lands or waters which, on or before December thirty-first, one thousand nine hundred eighty-five, were part of the state's system of parks, or which were held or used for recreational purposes, shall be subject to such sale, exchange or transfer, by the division: Provided further, That nothing herein contained shall be construed to prevent the division from selling, transferring or conveying to any other division or agency of this state any lands or waters to which it has title and which was sold, conveyed or transferred to the division from the division or agency to which it is being sold, conveyed or transferred.

(8) Make recommendations to the governor and the Legislature of any legislation deemed necessary to facilitate the carrying out of any of the foregoing powers and duties, and to exercise any other power that may
be necessary or proper for the orderly conduct of the
business of the division and the effective discharge of the
duties of the division; and
(9) To cooperate and assist in the production of motion
tables and television and other communications.
§5B-1-6. Sections created; continuation of civil service
coverage for persons employed in the former
department of commerce.
There is hereby created within the division of tourism
and parks:
(1) The section of tourism;
(2) The section of advertising and promotion;
(3) The section of sales and marketing; and
(4) The section of parks and recreation.
Each said section shall be under the control of a
director to be appointed by the commissioner who shall
be qualified by reason of exceptional training and
experience in the field of activities of his respective
section and shall serve at the will and pleasure of the
commissioner. The commissioner shall have authority to
establish such additional sections as may be determined
necessary to carry out the purposes of this chapter.
All persons employed on the effective date of this
chapter in the department of commerce, the duties and
functions of which have been transferred to the division
of tourism and parks created by virtue of the provisions
of the economic development act of one thousand nine
hundred ninety, are hereby assigned and transferred to
the division of tourism and parks, and no person's
employment shall be eliminated, nor shall any person's
salary, benefits or position classification be reduced or
diminished by reason of the provisions of this chapter.
All persons affected shall retain their coverage under
the civil service system and all matters relating to job
classification, job tenure, salary and conditions of
employment shall remain in force and effect from and
after the effective date of this chapter: Provided, That
nothing herein shall prohibit the disciplining or
dismissal of any employee for cause, or the dismissal of any nonclassified supervising employees appointed by the governor and serving at the will and pleasure of the governor.

§5B-1-6a. Program and policy action statement; submission to joint committee on government and finance.

The division of tourism and parks, the office of community and industrial development and any other authorities, boards, commissions, corporations or other entities created or amended under chapters five-b and article eleven, chapter eighteen-b of this code, shall prepare and submit to the joint committee on government and finance on/or before the first day of December, one thousand nine hundred ninety, and each year thereafter, a program and policy action statement which shall outline in specific detail according to the purpose, powers and duties of the office or section, its procedure, plan and program to be used in accomplishing its goals and duties as required under this article.

§5B-1-7. Section of tourism; purpose; powers and duties generally.

It shall be the duty of the section of tourism:

(a) To promote and enhance the tourist industry and improve tourist facilities and attractions;

(b) To compile a listing of all tourist facilities in this state, whether public or private, including, but not limited to, state parks and forests, camping grounds, back-packing and hiking trails, public and private hunting areas (including the game or fowl indigenous thereto), fishing lakes, ponds, rivers and streams (including the type of fish indigenous thereto; and the dates of the stocking thereof), ski resorts and areas, ice skating rinks or facilities, rifle and pistol target practice areas, skeet and other shooting facilities, archery ranges, swimming pools, lakes, ponds, rivers and streams, hotels, motels, resorts and lodges (including any attendant restaurant, banquet, meeting or convention facilities or services), health spas or mineral water
or spring water health facilities, museums, cultural centers, live performance theaters, colleges, schools, universities, technical centers, airports, railroad stations, bus stations, river docks, boating areas, government or military installations (which are not restricted to public access), historical places, markers or places of events, birthplaces of famous West Virginians, or any other thing of like kind and nature, and to develop relative thereto a series of films, videotapes, pamphlets, brochures and other advertising or promotional media, and to distribute the same in such a manner as to enhance the public's knowledge about West Virginia and its many attractions;

(c) Develop a plan for tourist facility expansion and new development, including financing;

(d) To develop a system, means and mechanism to distribute the promotional media described in subdivision (b) of this section, both nationally and internationally; and to make the same available to travel agents, tour groups, senior citizen organizations, airlines, railroads, bus companies, newspapers, magazines, radio and television stations, and the travel editors thereof; to develop, in cooperation with the division of highways, a series of information stations along interstate and other major highways of this state, utilizing existing rest stop areas and other areas at or near the main points of egress and ingress of this state for the purpose of making said information available to the public at large;

(e) To develop and implement a marketing strategy, employing radio, television, magazine and newspaper advertising, or any combination thereof, in those major metropolitan areas of the nation, in order to attract the residents thereof to visit and enjoy the tourist facilities of this state;

(f) To encourage, cooperate with and participate in, any group or organization, including regional travel councils, the purpose of which is to promote and advertise, or encourage the use of, tourist facilities in West Virginia;

(g) To provide professional assistance, technical
advice or marketing strategies to any privately owned facility or attraction, as described in subdivision (b) of this section, which is open and available to the general public, which has developed or is attempting to develop its own advertising program;

(h) To employ, train and supervise a corps of information specialists or tour guides in state park and facilities only who possess, or through their employment and training will possess, specific knowledge and information about the historic, scenic, cultural, industrial, educational, governmental, recreational and geographical significance of the state and the various facilities or attractions described in subdivision (b) of this section. In hiring the information specialists herein provided, special preference shall be given to senior citizens (those over sixty-two years of age) and college students who are bona fide residents of the state and enrolled in any college or university of this state, whether public or private, all of whom shall be hired on a part-time basis and whose periods of employment may be reasonable;

(i) To assist tour groups, travel agencies, public carriers or other entities of like kind or nature in developing a program of preplanned tours, visits or vacations in West Virginia; and, in conjunction therewith, to coordinate the activities of said tour groups, travel agencies, public carriers or other entities with the services offered by any of the facilities set forth in subdivision (b) of this section; and to encourage said facilities to offer special or discount rates to any party traveling with said tour groups, travel agencies, public carriers or other entities of like kind or nature; and

(j) To cooperate with the division of highways, in developing a system of informational highway signing relating to the recreational, scenic, historic and transportational facilities and attractions of the state that comply with the current federal and state regulations as related to outdoor advertising and signing as required by the Manual of Uniform Traffic Control Devices.
§5B-1-8. Section of advertising and promotion; purpose; powers and duties generally.

It shall be the duty of the section of advertising and promotion:

(a) Based upon the information, statistics, facts, studies and conclusions produced by or for the governor's office of community and industrial development, to develop a program of advertising strategies and plans to inform the public at large and specific target groups about various aspects of the state of West Virginia, including, but not limited to, agriculture, natural resources, timber and timber byproducts, coal, oil, gas and their byproducts, existing industries and existing and proposed industrial sites, educational, research and technical institutions, the labor force, transportation, public utilities, navigable waterways, rivers, lakes and streams, taxation, revenue bonding availability and assistance, governmental rules and regulations relative to business and industry, and any other fact, statistic or item of information which is or may be helpful to or of interest to any corporation, partnership, association, individual or individuals who or which is or may be interested in engaging in business in the state of West Virginia;

(b) To develop such films, videotapes, computer software, phonograph records, tape recordings, pamphlets, brochures, booklets, information sheets, radio, television or newspaper advertising, magazine inserts, advertisements or supplements, billboards or any other thing of like kind or nature which is, or may be, likely to inform the public at large or any specifically targeted group or industry about the benefits of living in, investing in, producing in, buying from, contracting with, or in any other way related to, the state of West Virginia or any business, industry, agency, institution or other entity therein;

(c) To employ or contract with such professional or technical experts or consultants as may be necessary to create and produce the items set forth in subdivision (b) of the section;
(d) To spend such sums of money as may be necessary, within legislative appropriation therefor, to purchase advertising time or space in or upon any medium generally engaged or employed for said purpose to distribute or disseminate the items of advertising described in subdivision (b) of this section;

(e) To provide professional assistance, technical advice or marketing strategies to any privately owned business or industry in this state which has developed or is attempting to develop its own advertising program;

(f) To cooperate with, or participate in, any group or organization, whether public or private, the purpose of which is to promote, enhance or develop a positive image of the state of West Virginia or any business, industry, institution or facility therein;

(g) To use such resources as are available to it to distribute the items of advertising and promotion described in subdivision (b) of this section, to such group or groups, audience or audiences, corporations, partnerships, associations, including public and private colleges and universities, and to individuals, who or which are, or may be, interested in some aspect of the state of West Virginia;

(h) To engage in, participate in, promote or sponsor, such trade shows, fairs, information seminars or symposiums, or other event or events of like kind and nature, including privately funded trade shows, fairs, information seminars or symposiums, or other event or events of like kind and nature, whether located within or without this state, or beyond the borders of the United States, to promote generally the state of West Virginia or to assist any business, industry or other entity, whether public or private, in promoting, advertising or advancing the reputation of the state of West Virginia or any corporation, association, partnership, institution, business, industry or other entity which is, or may be, likely to produce additional employment or employment opportunities, business or business opportuni-

(i) To perform such other duties or functions, or to
§5B-1-10. Section of sales and marketing; purpose; powers and duties generally.

It shall be the duty of the section of sales and marketing:

(a) To develop such programs as are necessary for the promotion and marketing of West Virginia arts, crafts and products, and to implement said program in this state, in the United States and in other countries;

(b) To design, develop and create, or to provide for the design, development and creation of, such films, videotapes, pamphlets, brochures, and other advertising and promotional media, and to distribute the same in such a manner as to enhance the public’s knowledge of West Virginia arts, crafts and products;

(c) To sponsor or participate in trade shows, trade fairs or other events the purpose of which is to display, sell, or increase public awareness of, West Virginia arts, crafts and products;

(d) To design and implement a program of direct sales of West Virginia arts, crafts and products; and to provide for the publication and distribution of a catalog which adequately displays and describes the arts, crafts and products being offered for sale, employing such direct mail or other means of distribution as the director deems appropriate;

(e) To cooperate with artists, craftsmen, guilds, cooperatives and other organizations, the purposes of which are to enhance or promote West Virginia arts, crafts and products, and to assist said artists, craftsmen, guilds, cooperatives and organizations in the development of their own marketing programs;

(f) To develop markets in West Virginia, other states and other nations for said arts, crafts and products by employing persons who shall act as sales agents for said arts, crafts and products;

(g) To cooperate with other governmental divisions,
and with other groups, guilds, cooperatives or other entities, whether public or private, the purpose of which is to further enhance and promote the sale, use, distribution or public knowledge of West Virginia arts, crafts and products; and

(h) To perform such other duties or functions, or to engage in such other activities, as the director may from time to time direct.

§5B-1-12. Section of parks and recreation created; duties, records and equipment previously transferred from the department of natural resources to the department of commerce; funds.

(a) The duties, powers and functions of the section of parks and recreation within the division of natural resources previously transferred to the department of commerce are hereby transferred to the division of tourism and parks.

(b) All books, papers, maps, charts, plans, literature and other records, and all equipment in the possession of the department of commerce shall be delivered or turned over to the division of tourism and parks.

(c) The division of tourism and parks shall have the duty and authority to administer those properties which are a part of the state parks and public recreation system, but the legal title to such properties shall remain with the department of natural resources.

(d) All existing contracts and obligations of the division of parks and recreation shall remain in full force and effect and any existing contracts and obligations relating to parks and recreation shall be performed by the division of tourism and parks.

(e) The unexpended balance existing on the effective date of this chapter in any appropriation made to the division of commerce is hereby transferred and appropriated to the division of tourism and parks.

The director of the division of natural resources and the commissioner of tourism and parks shall cooperate
fully and exercise their powers to facilitate the development of new or the expansion of existing park facilities, including but not limited to, the authorities as set forth in this chapter relating to the division of tourism and parks, and as set forth in section twenty, article one, chapter twenty of this code, relating to the division of natural resources, as amended from time to time.

§5B-1-12b. Conveyance of Grandview State Park to the National Park Service; governor, director of the division of natural resources and director of the division of tourism and parks.

The governor and the director of the division of natural resources may convey, within one year of the effective date of this section, the lands and property of Grandview State Park to the National Park Service of the government of the United States of America: Provided, That the National Park Service agrees to accept the conveyance: Provided, however, That the division of natural resources shall hold public hearings prior to making said conveyance. At least one public hearing shall be held in the county where the park is located.

The commissioner of the division of tourism and parks shall cooperate with and aid the division of natural resources in the conveyance. The conveyance is subject to the provisions of article one-a, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

§5B-1-13. Section of parks and recreation; purpose; powers and duties generally.

It shall be the duty of the section of parks and recreation to have within its jurisdiction and supervision:

(a) All state parks and state recreation areas, including all lodges, cabins, swimming pools, motorboating and all other recreational facilities therein, except the roads therein which, by reason of section one, article
four, chapter seventeen of this code, are transferred to
the state road system and to the responsibility of the
commissioner of highways with respect to the construc-
tion, reconstruction and maintenance of the roads or any
future roads for public usage on publicly owned lands
in future state parks, state forests and public hunting
and fishing areas;

(b) The authority and responsibility to do the neces-
sary cutting and planting of vegetation along road
rights-of-way in state parks and recreational areas;

(c) The administration of all laws and regulations
relating to the establishment, development, protection,
use and enjoyment of all state parks and state recrea-
tional facilities consistent with the provisions of this
article: Provided, That nothing herein shall be construed
to assign to the section of parks and recreation of the
division of tourism and parks the law-enforcement
duties set forth in article seven, chapter twenty of this
code, which duties shall remain the responsibility of the
division of natural resources;

(d) The Berkeley Springs sanitarium in Morgan
County shall be continued as a state recreational facility
under the jurisdiction and supervision of the division of
tourism and parks and shall be managed, directed and
controlled as prescribed here in this article and in
article one, chapter twenty of this code.

The commissioner shall have and is hereby granted all
of the powers and authority and shall perform all of the
functions and duties with regard to Berkeley Springs
sanitarium that were previously vested in and per-
formed by the director of the division of natural
resources, who shall no longer have such power and
authority and whose power and authority with regard
to Berkeley Springs sanitarium is hereby abolished;

(e) The Washington Carver camp in Fayette County
is hereby transferred from the division of natural
resources to the commissioner who shall have the
jurisdiction and supervision of the camp subject to the
jurisdiction and authority of the division of culture and
history as provided under section thirteen, article one,
chapter twenty-nine of this code. The commissioner shall manage the Washington Carver camp as a state recreational facility and a component of the state park system; 

(f) The improved recreational area of Camp Creek State Forest in Mercer County, as delineated according to section three, article one-a, chapter nineteen of this code, is hereby renamed as the Camp Creek State Park and under that name shall be managed as a state recreational facility; 

(g) The improved recreational area of Moncove Lake public hunting and fishing area, consisting of all improved recreational facilities, including all land between the lake and private property beginning at the main entrance on secondary route eight to the first stream on the southwest side of the improved recreational area, approximately two hundred feet southwest of the private property corner where it meets the Roxalia Springs trail, thence northwest to a stream and along this stream northward to and across the Diamond Hollow trail to the area boundary, thence continuing around area boundary to the lake shore, thence following the lake shore around the shoreline to meet the line drawn from the main entrance where the boundary begins. This area is hereby renamed as the Moncove Lake State Park and under that name shall be managed as a state recreational facility: Provided, That the boundary, as herein described, shall be plainly marked within ninety days of the effective date of this act; and 

(h) The commissioner of the division of tourism and parks shall be primarily responsible for the execution and administration of the provisions herein as an integral part of the parks and recreation program of the state and shall organize and staff his section for the orderly, efficient and economical accomplishment of these ends. 

§5B-1-15. Contracts for operation of commissaries, restaurants, recreational facilities and other establishments limited to ten years' duration; renewal at option of commis-
sioner; termination of contract by the commissioner; contracts for development of revenue producing facilities within the state parks and recreational facilities; level of investment of contracts; term of investment contract; reservation of option to renew; and, purchase of investment in event of default and price determination upon such event.

(a) When it is deemed necessary by the commissioner to enter into a contract with a person, firm or corporation for the operation of a commissary, restaurant, recreational facility or other such establishment within the state parks and public recreation system, such contract shall be for a duration not to exceed ten years, but a contract so made may provide for an option to renew at the commissioner's discretion for an additional term or terms not to exceed ten years at the time of renewal.

Any contract entered into by the commissioner shall provide an obligation upon the part of the operator that he or she maintain a level of performance satisfactory to the commissioner, and shall further provide that any such contract may be terminated by the commissioner in the event he or she determines that such performance is unsatisfactory and has given the operator reasonable notice thereof.

(b) When it is deemed necessary by the commissioner to enter into a contract with a person, firm or corporation for the development of revenue producing facilities within the state parks and public recreation system for a period of more than ten years, such contract shall be at least a one million dollar level of investment for such revenue producing facilities. The term of the investment contract may be up to twenty-five years of duration at the determination of the commissioner and based upon the amount of the investment and the achievement of the environmental, recreational and cultural goals of the state park or recreation areas system of this state.

Any contract so entered into may provide for an option
to renew at the discretion of the commissioner for an
additional term not to exceed an additional fifteen year
term at the time of renewal.

Any such investment contract entered into by the
commissioner shall contain a provision for the purchase
of the investment upon an event of default on the part
of the investor on the contract. Such purchase may be
exercised only for default. The purchase price of the
investment shall be determined by determining a
percentage by dividing the number of years remaining
in the term of the contract at the time of default by the
number of years of the term of the contract and then
reducing the purchase price by such percentage of the
amount of the investment. The amount of the investment
shall be the actual cost of constructing the facilities, not
including overhead, called for in the contract, as
certified by a certified public accountant at the time the
facilities are completed. The contract shall provide that
the payments to the defaulting investor shall be made
in equal payments yearly during the remaining period
of the term of the contract.

(c) The commissioner may not solicit nor enter into
contracts, except for the operation of a commissary,
restaurant or marina for a period of less than ten years,
until a master plan for the administration of that state
park or recreation area has been developed. He or she
shall supervise the preparation of the plan and may
utilize the staff of the department of natural resources
or any other state governmental agency whose expertise
he or she desires to enlist in the preparation thereof. The
commissioner shall solicit public participation and
involvement in all stages of the preparation of the plan
and in the preparation of any requests for proposals for
the development of a revenue producing facility, as
described herein, with a contract duration in excess of
ten years. The plan shall be consistent with the
environmental, recreational and cultural goals of the
state park and recreation areas system of the state and,
to the extent practical with the public comments and
input received during plan development.

(d) If the commissioner considers a proposal for the
development of a revenue producing facility, as described herein, such proposal shall be made available to the public in a convenient location in the county wherein the proposed facility may be located. The commissioner shall publish a notice of the proposal by Class I legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The publication area is the county in which the proposed facility would be located. Any citizen may communicate by writing to the commissioner his or her opposition or approval to such proposal within a period of not less than thirty days from the date of the publication of notice.

(e) No contract of a term greater than ten years may be entered into by the commissioner until a public hearing is held in the vicinity of the location of the proposed facility with at least two weeks notice of such hearing by Class I publication pursuant to section two, article three, chapter fifty-nine of this code. The commissioner shall make findings prior to rendering a decision on any proposed contract of a duration of more than ten years. All studies, records, documents and other materials which are considered by the commissioner in making such findings as required herein shall be made available for public inspection at the time of the publication of the notice of public hearing and at a convenient location in the county where the proposed development may be located.

The commissioner shall make rules in accordance with chapter twenty-nine-a of this code, for the conduct of the hearing required by this section. Persons attending such hearings shall be permitted a reasonable opportunity to be heard on the proposed development.

At such hearing the commissioner shall present in writing the following findings and supporting statements therefor:

(1) That the proposed development will not deprive users of the state park or recreational area of existing recreational facilities in any significant fashion;

(2) That the proposed development will not have
(3) That the proposed development, considered as a whole, is of benefit to the recreational goals of the state and is consistent with the master plan developed for that park or recreational area.

(f) Following a public hearing as prescribed herein any interested person may submit to the commissioner written comments on the proposed development. All comments made at a hearing, in addition to those received in writing within thirty days after any such hearing, shall be considered by the commissioner in the determination of whether to approve the proposed development.

(g) The commissioner may not enter into any contract of a duration of more than ten years unless all procedures and requirements as prescribed by this section have been complied with.

(h) The commissioner shall make a decision whether to approve any proposal to enter into a contract for a duration of more than ten years within sixty days after the conclusion of the hearing as specified herein.

§5B-1-16. Acquisition of former railroad subdivision for establishment of Greenbrier River Trail; development, protection, operation and maintenance of trail.

(a) The commissioner may acquire from the West Virginia railroad maintenance authority approximately seventy-five miles of right-of-way along the former Greenbrier subdivision of the Chessie Railroad System between Caldwell in Greenbrier County and Cass in Pocahontas County to be developed as the “Greenbrier River Trail.” The acquired property shall be operated under the authority of the division of tourism and parks and used for:

(1) The construction and maintenance of barriers for the protection of the trail from motorized vehicular traffic and for the protection of adjacent public and private property; and
(2) The development, construction, operation and maintenance of bicycle and hiking trails, horseback trails, primitive camping facilities and other compatible recreational facilities to be so designated by the commissioner.

§5B-1-17. Correlation of projects and services.

The commissioner of the division of tourism and parks shall correlate and coordinate his park and recreation programs, projects and developments with the functions and services of other offices and sections of the division and other agencies of the state government so as to provide, consistent with the provisions of this chapter, suitable and adequate facilities, landscaping, personnel and other services at and about all state parks and public recreation facilities under his jurisdiction.

§5B-1-18. Sunset provision.

Unless sooner terminated by law, the division of tourism and parks shall terminate on the first day of July, one thousand nine hundred ninety-three, in accordance with the provisions of article ten, chapter four of this code.

ARTICLE 2. OFFICE OF COMMUNITY AND INDUSTRIAL DEVELOPMENT.

§5B-2-2a. General powers of the office.

The office of community and industrial development shall have the authority and duty to:

(1) Promote and encourage the location and development of new business in the state and the maintenance and expansion of existing business;

(2) Investigate and study conditions affecting West Virginia business, industry and commerce; collect and disseminate information, and engage in technical studies, scientific investigations, statistical research and educational activities necessary or useful for the proper execution of the powers and duties of the department;

(3) Plan and develop an effective economic information service that will directly assist business, education and labor and also encourage businesses outside the

state to use industrial office facilities, professional, labor, financial and recreational facilities, services and products from within the state;

(4) Encourage and develop commerce with other states and nations and devise methods of removing trade barriers that hamper the free flow of commerce between this and other states and nations and for these purposes cooperate with governmental, quasi-public and private organizations in formulating and promoting the adoption of compacts and agreements helpful to commerce and labor;

(5) Conduct or encourage research designed to further new and more extensive uses of the natural, human, professional, technical and other resources of the state with a view to the development of new products, industrial processes, services and markets;

(6) Compile periodically a census of business and industry in the state, in cooperation with other agencies, and analyze and publish the information in such form as to be most valuable to business and industry;

(7) Study long-range trends and developments in the industries, commerce and economic health of the state, and analyze the reasons underlying such trends; study costs and other factors affecting successful operation and location of businesses within the state;

(8) Initiate, promote and conduct, or cause to be conducted, research designed to further new and more extensive uses and consumption of natural and other resources and their by-products; and for such purposes, to enter into contracts and agreements with research laboratories maintained by educational or endowed institutions in this state;

(9) To establish as an independent entity at West Virginia University in cooperation with and involving other West Virginia colleges and universities a center for economic research. The center shall be under the control and supervision of a director, who shall be appointed by the president of West Virginia University. The center shall employ such staff economists or
54 statisticians, such research assistants and secretaries, each of whom shall serve on a part-time basis and may be members of the faculty or staff of West Virginia University or any other college or university in the state. In addition, the center may employ student interns;

59 (10) The center shall provide the governor's office of community and industrial development, commissioner of tourism and parks and the Legislature, with an analysis of the quality of economic data pertaining to West Virginia. The center shall recommend ways to obtain additional information necessary to better understand the state's economy and to devise better economic development strategies. The center is directed to establish priorities and coordinate its economic research functions with the governor and the Legislature. To accomplish this purpose the advisory board created for the institute of public affairs in section one, article twenty-six-b, chapter eighteen of this code, shall serve as the advisory board to the center. The director of the center shall serve as the chairman of the advisory board. The center shall publish results of its research, maintain a comprehensive library with supporting computer data bases and shall, upon request, provide a review of the economy and major policy issues to the joint committee on government and finance;

79 (11) During its first year of operation, the center shall include in its research topics the desirability of establishing a detailed gross state products series, modeled after the national income and products accounts and the desirability of constructing a periodic input/output table for the state. It shall review the quality of current statistics relating to employment and prices and statistics relating to poverty and the distribution of income and wealth. The center may study the feasibility of, and, based upon such study establish a West Virginia econometric model project;

90 (12) Where deficiencies are found in existing data sources, the center shall publish conclusions regarding the benefits to be derived from gathering additional or better information and shall make operational recommendations on the best possible methods for obtaining
(13) The director of the center or members of its staff shall meet on a regular basis with the director of the governor's office of community and industrial development, the commissioner of tourism, and parks other officials of the department and members of the Legislature to provide the results of its research and to provide policy advice and analysis;

(14) The center shall develop and maintain an inventory of research efforts of universities and colleges and other institutions or businesses within the state and a register of scientific and technological research facilities in the state. That function may be performed by contract with the center for education and research with industry of the board of regents;

(15) The governor's office of community and industrial development shall assist, promote, encourage, develop and advance economic prosperity and employment throughout this state by fostering the expansion of exports of manufactured goods and services to foreign purchasers and the investment of capital by foreign countries in this state;

(16) The governor's office of community and industrial development shall cooperate and act in conjunction with other organizations, public and private, the objects of which are the promotion and advancement of export trade and foreign investment activities in the state of West Virginia;

(17) The governor's office of community and industrial development shall consider establishing a source of funding credit guarantees and insurance to support export development not otherwise available to West Virginia small and medium sized businesses;

(18) The governor's office of community and industrial development shall develop a strategic plan for the economic development of the state, its regions and specific industries including tourism, manufacturing, timber, agriculture and other rural development, coal, oil, gas and other extractive resources, retail, service,
distribution and small businesses. Such a plan shall emphasize a coordinated effort of the public and private sector toward balanced growth for the state. Such plan shall include, but is not limited to, the following:

(A) Assessing the state's economic strengths and weaknesses;

(B) Developing and recommending short, intermediate and long-term economic goals and plans, together with options;

(C) Identifying barriers to economic growth and diversification in the state;

(D) Recommending implementation procedures and options utilizing and maximizing existing public and private mechanism;

(E) Fostering and supporting scientific and technological research in this state in cooperation with the federal government, the various offices and divisions of the department of commerce and other state and local governmental agencies, educational institutions, non-profit institutions and organizations, business enterprises and others concerned with scientific and technological research development;

(F) Developing a program to attract investment in research and development in high technology industries;

(G) Conducting a series of studies to determine the feasibility of constructing natural gas transmission lines, electric power generating facilities and coal processing plants to be owned, either in whole or in part, or to be operated, either in whole or in part, by the state of West Virginia; and

(H) Maintaining a library of research materials, including computer data bases, to accomplish the goals of the division.

§5B-2-3. Divisions created.

There are hereby created within the office of community and industrial development:

(1) The division of community development;
(2) The division of financial and technical assistance;
(3) The division of administration;
(4) The division of industrial development;
(5) The division of employment and training;
(6) The division of small business development;
(7) The division of small business; and

Each said division shall be under the control of a director to be appointed by the director of the office of community and industrial development and who shall be qualified by reason of exceptional training and experience in the field of activities of his respective division and shall serve at the will and pleasure of the director.

The governor is hereby authorized to establish and maintain foreign trade offices, personnel for same and attendant services.

ARTICLE 2D. WEST VIRGINIA GUARANTEED WORK FORCE PROGRAM.

§5B-2D-1. Short title.
This article shall be known and may be cited as the “West Virginia Guaranteed Work Force Program”.

§5B-2D-2. Definitions.
(a) “GOCID” shall mean the Governor’s Office of Community and Industrial Development;
(b) “Employer” shall mean an individual, partnership, corporation, or other legal entity that employs or plans to employ skilled workers;
(c) “Retraining and Job Upgrade” shall mean the specialized training that is given to an identified level of employees to enable them to advance to a higher level of employment;
(d) “Program” shall mean the West Virginia Guaranteed Work Force Program established pursuant to section three;
(e) “Training” shall mean custom-designed training given to employees or prospective employees of new or
expanding businesses and industries within the state.

(f) “Training provider” shall mean any persons, public or private educational institutions, agencies, companies or other entities that may be utilized for training or consultative services for an employer.

§5B-2D-3. Training program.

The GOCID shall develop a business and industrial training program, the purpose of which is to provide assistance for new or expanding businesses for the training, retraining or upgrading of the skills of potential employees. The program shall emphasize employee training specifically designed to accommodate the needs of individual employers. The program shall encourage the expansion of existing businesses and industries within the state, promote retention of businesses and industries within the state, promote retention of existing jobs within the state, prevent economic and industrial out-migration, and assist in the relocation of out-of-state businesses and industries in the state. Under this program, GOCID may pay up to one hundred percent (100%) or one thousand dollars ($1,000), per employee, whichever is less, of the training costs of new employees in firms creating at least fifty (50) jobs in a one year period. Training assistance may also be provided to existing businesses in cases in which training, retraining or upgrading services will result in the creation of additional jobs: Provided, however, That GOCID may pay up to one hundred percent (100%) or one thousand dollars ($1,000) per employee, whichever is less, for the training, retraining or upgrading. Training costs associated with this program will be paid directly by GOCID to the training provider.

Provision of training services will depend upon employer hiring performance and projections which meet the fifty (50) jobs per year requirement. The State of West Virginia guarantees if employer satisfaction is not achieved, GOCID will upon a review of the program with the employer and the training provider arrange retraining of employees to meet the employer's specifications and satisfaction: Provided, however, That in no
instance may the cost of training and retraining an employee exceed two thousand dollars ($2,000).

§5B-2D-4. Funds.

The funds made available by this section shall supplement but not displace funds available through existing programs conducted by employers themselves and public programs such as the Job Training Partnership ACT (JTPA), the Carl D. Perkins Vocational Education Act, the Stewart B. McKinney Homeless Assistance Act, and the JOBS Act, or apportionment fund allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Governor's Office of Community and Industrial Development that the program established pursuant to this section shall not replace, parallel, supplant, compete with, or duplicate in any way existing, approved apprenticeship programs.

The fund shall consist of all moneys which may be transferred to it by the West Virginia Economic Development Authority (WVEDA) and also any contributions, grants or bequests received from federal, private or other sources. Appropriations made from the funds shall be for the purpose of providing contractual services through GOCID for vocational related training or retraining provided by public or private training institutions within West Virginia and for contracted services through the GOCID for vocational related training, retraining or upgrading provided by public or private training institutions located outside of West Virginia and for vocational related training or retraining provided on site, within West Virginia by any training provider as defined in this article.

§5B-2D-5. Program activities.

The primary concern in the provision of training services shall be the needs and type of services identified by the employer. A college or university, community college or area vocational education center shall be given initial consideration to provide any training, retraining, or job upgrade training. The employer will
have the opportunity to participate in the selection of a training provider. Training services may begin upon execution of a written agreement between GOCID and the employer.

Program activities, may include, but not be limited to the following:

(a) Perform a job skills analysis and design a training curriculum for an employer.

(b) Recruit and refer trainee applicants to an employer.

(c) Provide off site preemployment training, or on site preemployment training if off site preemployment training is not practical, to prospective employees of a new or expanding business or industry and to existing employees for purposes of retraining or upgrading.

(d) Retrain employees in response to a technological change.

(e) Provide job upgrade training if the training will increase the employer’s total work force.

(f) Contract with persons, public or private educational institutions, agencies, or other bodies for training or consultative services for an employer.

(g) Provide materials and supplies used in the training process, instructors with specialized skills, instructional training aids and equipment, consultative services relative to highly specific or technical data, and other services.

(h) Assist a foreign employer locating or expanding in this state by familiarizing the employer’s foreign personnel with the work attitudes, work methods, expectations, customs, and life style of employees who work within this state.

(i) Take other action that is considered to be necessary or desirable for the furtherance of this act.

(j) No funds shall be awarded or reimbursed to any business or industry for the training, retraining or upgrading of skills of potential employees with the
purpose of replacing or supplanting employees engaged in an authorized work stoppage.

§5B-2D-6. Reporting.

1 The office shall file a report with the legislature and the Governor at the end of each fiscal year, commencing June thirtieth, one thousand nine hundred ninety. This report shall include the following:

(a) The number of persons trained and their demographics.

(b) The number of persons placed in employment.

(c) The number of employers for which persons have been trained and placed.

(d) The number of persons trained and placed for each employer.

(e) The types of work for which persons have been trained.

(f) The source of training fund.

(g) The overall effectiveness of this act in contributing to economic stabilization and business and industrial growth within this state. In addition, the Governors Office of Community and Industrial Development shall report on a quarterly basis to the joint commission on vocational, technical and occupational education, the following as they relate to the training program established by this article:

(1) The names of all companies approved for training during the reporting quarter.

(2) The names of all companies receiving funding for training during the reporting quarter.

(3) The amount and source of funds utilized for each training program.

(4) The type of training being delivered.

(5) The number of employees trained.

(6) Those agencies providing the training.
§5B-2D-7. Marketing.

1 The Governor's Office of Community and Industrial Development shall market and promote the program.

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

Frederick P. Pierre  
Chairman Senate Committee

Bernard V. Kelly  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1990.

Narrish E. Nelson  
Clerk of the Senate

Donald D. Kopp  
Clerk of the House of Delegates

Kay E. Simms  
President of the Senate

Robert C. Cline  
Speaker of the House of Delegates

The within is approved this the 30th day of March, 1990.

[Signature]  
Governor