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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2005

ENROLLED

Committee Substitute for

SENATE BILL NO. 19

(By Senator Kessler)

PASSED April 7, 2005

In Effect ninety days from **Passage**

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 19

(SENATOR KESSLER, *original sponsor*)

[Passed April 7, 2005; in effect ninety days from passage.]

AN ACT to repeal §9-4-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-2-6 of said code, relating to elimination of the dormant Advisory Board for the Secretary of the Department of Health and Human Resources; and adding within the Department of Health and Human Resources the Office of Inspector General.

Be it enacted by the Legislature of West Virginia:

That §9-4-1 of the Code of West Virginia, 1931, as amended, be repealed; and that §9-2-6 of said code be amended and reenacted to read as follows:

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES
AND RESPONSIBILITIES GENERALLY.**

§9-2-6. Powers of Secretary.

- 1 Within limits of state appropriations and federal grants
- 2 and subject to provisions of state and federal laws and
- 3 regulations, the Secretary, in addition to all other powers,
- 4 duties and responsibilities granted and assigned to that

5 office in this chapter and elsewhere by law, is authorized
6 and empowered to:

7 (1) Promulgate, amend, revise and rescind Department
8 rules respecting the organization and government of the
9 Department and the execution and administration of those
10 powers, duties and responsibilities granted and assigned
11 by this chapter and elsewhere by law to the Department
12 and the Secretary.

13 (2) Promulgate, amend, revise and rescind Department
14 rules and regulations respecting qualifications for receiv-
15 ing the different classes of welfare assistance consistent
16 with or permitted by federal laws, rules and policies, but
17 not inconsistent with state law: *Provided*, That such rules
18 and policies respecting qualifications shall permit the
19 expenditure of state funds to pay for care rendered in any
20 birthing center licensed under the provisions of article
21 two-e, chapter sixteen of this code by a licensed nurse
22 midwife or midwife as this occupation is defined in section
23 one, article fifteen, chapter thirty of this code and which
24 care is within the scope of duties for such licensed nurse
25 midwife or midwife as permitted by the provisions of
26 section seven of said article.

27 (3) Obtain by purchase or lease such grounds, buildings,
28 office or other space, equipment, facilities and services as
29 may be necessary for the execution and administration of
30 those powers, duties and responsibilities granted and
31 assigned by this chapter and elsewhere by law to the
32 Department and the Secretary.

33 (4) Sign and execute in the name of the state by the state
34 Department of Health and Human Resources any contract
35 or agreement with the federal government or its agencies,
36 other states, political subdivisions of this state, corpora-
37 tions, associations, partnerships or individuals.

38 (5) Establish such special funds as may be required by
39 the federal Social Security Act, as amended, or by any

40 other Act or Acts of Congress, in order for this state to
41 take full advantage of the benefits and provisions thereof
42 relating to the federal-state assistance and federal assis-
43 tance programs administered by the Department and to
44 make payments into and disbursements out of any such
45 special fund or funds in accordance with the requirements
46 of the federal Social Security Act, as amended, or any
47 other Act or Acts of Congress, and in accordance with
48 applicable state law and the objects and purposes of this
49 chapter. In addition, the state Department of Health and
50 Human Resources, through the Secretary, is hereby
51 authorized to accept any and all gifts or grants, whether in
52 money, land, services or materials, which gift or gifts, if in
53 the form of moneys, shall be placed in a separate fund and
54 expended solely for the purpose of public assistance
55 programs. No part of this special fund shall revert to the
56 general revenue funds of this state. No expenses incurred
57 pursuant to this special fund shall be a charge against the
58 general funds of this state.

59 (6) Establish within the Department an Office of Inspec-
60 tor General for the purpose of conducting and supervising
61 investigations and for the purpose of providing quality
62 control for the programs of the Department. The Office of
63 Inspector General shall be headed by the Inspector Gen-
64 eral who shall report directly to the Secretary. Neither the
65 Secretary nor any employee of the Department may
66 prevent, inhibit or prohibit the Inspector General or his or
67 her employees from initiating, carrying out or completing
68 any investigation, quality control review or other activity
69 oversight of public integrity by the Office of the Inspector
70 General. The Secretary shall place within the Office of
71 Inspector General any function he or she deems necessary.
72 Qualification, compensation and personnel practice
73 relating to the employees of the Office of the Inspector
74 General, including that of the position of Inspector
75 General, shall be governed by the classified service
76 provisions of article six, chapter twenty-nine of this code
77 and rules promulgated thereunder. The Inspector General

78 shall supervise all personnel of the Office of Inspector
79 General.

80 (7) Provide at Department expense a program of contin-
81 uing professional, technical and specialized instruction for
82 the personnel of the Department.

83 (8) Pay from available funds all or part of the reasonable
84 expenses incurred by a person newly employed by the
85 Department in moving his household furniture, effects and
86 immediate family from his or her place of residence in this
87 state to his or her place of employment in this state; and to
88 pay from available funds all or part of the reasonable
89 expenses incurred by a Department employee in moving
90 his or her household furniture, effects and immediate
91 family as a result of a reassignment of the employee which
92 is considered desirable, advantageous to and in the best
93 interests of the state, but no part of the moving expenses
94 of any one such employee shall be paid more frequently
95 than once in twelve months or for any movement other
96 than from one place of employment in this state to another
97 place of employment in this state.

98 (9) Establish and maintain such institutions as are
99 necessary for the temporary care, maintenance and
100 training of children and other persons.

101 (10) Prepare and submit state plans which will meet the
102 requirements of federal laws, rules governing federal-state
103 assistance and federal assistance and which are not
104 inconsistent with state law.

105 (11) Organize within the Department a Board of Review,
106 consisting of a Chairman appointed by the Secretary and
107 as many assistants or employees of the Department as may
108 be determined by the Secretary and as may be required by
109 federal laws and rules respecting state assistance, federal-
110 state assistance and federal assistance, such Board of
111 Review to have such powers of a review nature and such
112 additional powers as may be granted to it by the Secretary

113 and as may be required by federal laws and rules respect-
114 ing federal-state assistance and federal assistance.

115 (12) Provide by rules such review and appeal procedures
116 within the Department of Health and Human Resources as
117 may be required by applicable federal laws and rules
118 respecting state assistance, federal-state assistance and
119 federal assistance and as will provide applicants for, and
120 recipients of all, classes of welfare assistance an opportu-
121 nity to be heard by the Board of Review, a member thereof,
122 or individuals designated by the Board, upon claims
123 involving denial, reduction, closure, delay or other action
124 or inaction pertaining to public assistance.

125 (13) Provide by rules, consistent with requirements of
126 applicable federal laws and rules, application forms and
127 application procedures for the various classes of public
128 assistance.

129 (14) Provide locations for making applications for the
130 various classes of public assistance.

131 (15) Provide a citizen or group of citizens an opportunity
132 to file objections and to be heard upon objections to the
133 grant of any class of public assistance.

134 (16) Delegate to the personnel of the Department all
135 powers and duties vested in the Secretary, except the
136 power and authority to sign contracts and agreements.

137 (17) Make such reports in such form and containing such
138 information as may be required by applicable federal laws
139 and rules respecting federal-state assistance and federal
140 assistance.

141 (18) Invoke any legal, equitable or special remedies for
142 the enforcement of the provisions of this chapter.

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

Wanda White
.....
Chairman Senate Committee

Richard Berry
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Holmes
.....
Clerk of the Senate

Debra A. Smith
.....
Clerk of the House of Delegates

Carl Roy Brundage
.....
President of the Senate

John W. R. ...
.....
Speaker House of Delegates

The within *is approved* this the *21st*
Day of *April*, 2005.
[Signature]
.....
Governor



PRESENTED TO THE
GOVERNOR

APR 15 2005

Time *3:50*