WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4194

(By Delegate Morgan)

Passed March 13, 2010

In Effect July 1, 2010
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COMMITTEE SUBSTITUTE
FOR
H. B. 4194

(BY DELEGATE MORGAN)

[Passed March 13, 2010; in effect July 1, 2010.]

AN ACT to amend and reenact §SF-2-1 of the Code of West Virginia, 1931, as amended, and that said code be amended by adding thereto three new sections designated §15-9A-1, §15-9A-2 and §15-9A-3, all relating to codifying the Division of Justice and Community Services being incorporated in and administered as a part of the Department of Military Affairs and Public Safety.

Be it enacted by the Legislature of West Virginia:

That §SF-2-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §15-9A-1, §15-9A-2 and §15-9A-3, all to read as follows:

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

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.
§5F-2-1. Transfer and incorporation of agencies and boards; funds.

(a) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:

1. Building Commission provided in article six, chapter five of this code;

2. Public Employees Insurance Agency provided in article sixteen, chapter five of this code;

3. Governor’s Mansion Advisory Committee provided in article five, chapter five-a of this code;

4. Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of this code;

5. West Virginia Public Employees Grievance Board provided in article three, chapter six-c of this code;

6. Board of Risk and Insurance Management provided in article twelve, chapter twenty-nine of this code;

7. Boundary Commission provided in article twenty-three, chapter twenty-nine of this code;

8. Public Defender Services provided in article twenty-one, chapter twenty-nine of this code;

9. Division of Personnel provided in article six, chapter twenty-nine of this code;

10. The West Virginia Ethics Commission provided in article two, chapter six-b of this code;
(11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this code; and

(12) Real Estate Division provided in article ten, chapter five-a of this code.

(b) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Commerce:

(1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in article twelve-a, chapter twenty-one of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code;

(2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office of Miners' Health, Safety and Training for purposes of administrative support and liaison with the office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two-a of this code;

(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code; and
(C) Mine Inspectors’ Examining Board provided in article nine, chapter twenty-two-a of this code;

(3) The West Virginia Development Office, which includes the Division of Tourism and the Tourism Commission provided in article two, chapter five-b of this code;

(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a, chapter nineteen of this code;

(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and

(7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Services;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis; and

(8) Division of Energy provided in article two-f, chapter five-b of this code.

c) The Economic Development Authority provided in article fifteen, chapter thirty-one of this code is continued as an independent agency within the executive branch.
(d) The Water Development Authority and Board provided in article one, chapter twenty-two-c of this code is continued as an independent agency within the executive branch.

(e) The following agencies and boards, including all of the allied, advisory and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the office of the Governor:

(1) Air Quality Board provided in article two, chapter twenty-two-b of this code;

(2) Solid Waste Management Board provided in article three, chapter twenty-two-c of this code;

(3) Environmental Quality Board, or its successor board, provided in article three, chapter twenty-two-b of this code;

(4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;

(5) Oil and Gas Inspectors' Examining Board provided in article seven, chapter twenty-two-c of this code;

(6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this code; and

(7) Oil and Gas Conservation Commission provided in article nine, chapter twenty-two-c of this code.

(f) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Education and the Arts:
(1) Library Commission provided in article one, chapter ten of this code;

(2) Educational Broadcasting Authority provided in article five, chapter ten of this code;

(3) Division of Culture and History provided in article one, chapter twenty-nine of this code;

(4) Division of Rehabilitation Services provided in section two, article ten-a, chapter eighteen of this code.

(g) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health and Human Resources:

(1) Human Rights Commission provided in article eleven, chapter five of this code;

(2) Division of Human Services provided in article two, chapter nine of this code;

(3) Bureau for Public Health provided in article one, chapter sixteen of this code;

(4) Office of Emergency Medical Services and Advisory Council provided in article four-c, chapter sixteen of this code;

(5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;

(6) Commission on Mental Retardation provided in article fifteen, chapter twenty-nine of this code;
(7) Women's Commission provided in article twenty, chapter twenty-nine of this code; and

(8) The Child Support Enforcement Division provided in chapter forty-eight of this code.

(h) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Military Affairs and Public Safety:

(1) Adjutant General's Department provided in article one-a, chapter fifteen of this code;

(2) Armory Board provided in article six, chapter fifteen of this code;

(3) Military Awards Board provided in article one-g, chapter fifteen of this code;

(4) West Virginia State Police provided in article two, chapter fifteen of this code;

(5) Division of Homeland Security and Emergency Management and Disaster Recovery Board provided in article five, chapter fifteen of this code and Emergency Response Commission provided in article five-a of said chapter;

(6) Sheriffs' Bureau provided in article eight, chapter fifteen of this code;

(7) Division of Justice and Community Services provided in article nine a, chapter fifteen of this code;
(8) Division of Corrections provided in chapter twenty-five of this code;

(9) Fire Commission provided in article three, chapter twenty-nine of this code;

(10) Regional Jail and Correctional Facility Authority provided in article twenty, chapter thirty-one of this code;

(11) Board of Probation and Parole provided in article twelve, chapter sixty-two of this code; and

(12) Division of Veterans’ Affairs and Veterans’ Council provided in article one, chapter nine-a of this code.

(i) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:

(1) Tax Division provided in article one, chapter eleven of this code;

(2) Racing Commission provided in article twenty-three, chapter nineteen of this code;

(3) Lottery Commission and position of Lottery Director provided in article twenty-two, chapter twenty-nine of this code;

(4) Agency of Insurance Commissioner provided in article two, chapter thirty-three of this code;

(5) Office of Alcohol Beverage Control Commissioner provided in article sixteen, chapter eleven of this code and article two, chapter sixty of this code;
(6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-a of this code;

(7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;

(8) Division of Banking provided in article two, chapter thirty-one-a of this code;

(9) The State Budget Office provided in article two of this chapter;

(10) The Municipal Bond Commission provided in article three, chapter thirteen of this code;

(11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and

(12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this code.

(j) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Transportation:

(1) Division of Highways provided in article two-a, chapter seventeen of this code;

(2) Parkways, Economic Development and Tourism Authority provided in article sixteen-a, chapter seventeen of this code;

(3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;
(4) Driver's Licensing Advisory Board provided in article two, chapter seventeen-b of this code;

(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;

(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and

(7) Port Authority provided in article sixteen-b, chapter seventeen of this code.

(k) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the position of administrator and the powers, authority and duties of each administrator and agency are not affected by the enactment of this chapter.

(l) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the existence, powers, authority and duties of boards and the membership, terms and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers shall not have their appellate or independent decision-making status affected by the enactment of this chapter.

(m) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in section two, article one of this chapter, the reference means a division of the appropriate department and any reference to a division of
a department so transferred and incorporated means a section of the appropriate division of the department.

(n) When an agency, board or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the Office of the Governor, a department secretary or a bureau. Nothing in this section extends the powers of department secretaries under section two of this article to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9A. Division of Justice and Community Services.

§15-9A-1. Legislative findings.

The West Virginia Division of Justice and Community Services is required to perform certain administrative and executive functions related to the improvement of the criminal justice and juvenile justice systems, and various component agencies of state and local government with research and performance data, planning, funding and managing programs supported by federal and state granted funds, and through its staff activities on behalf of the Governor’s Committee on Crime, Delinquency and Correction, to provide regulatory oversight of law enforcement training and certification, community corrections programs established under the provisions of article eleven-c, chapter sixty-two of this code, and the monitoring of facilities for compliance with juvenile detention facilities standards established by state and federal law. These administrative and executive staffing functions
are necessary to provide for planning and coordination of services among the components of the criminal and juvenile justice systems; program development and implementation; and administration of grant funded programs emphasizing safety, prevention, coordination and the general enhancement of the criminal justice system as a whole, as well as such other federal grant funded activities as the Governor may from time to time designate for administration by the Division.

§15-9A-2. Division established; appointment of director.

(a) The Division of Justice and Community Services is created. The purpose of the division is to provide executive and administrative support to the Governor’s Committee on Crime Delinquency and Correction in the coordination of planning for the criminal justice system, to administer federal and state grant programs assigned to it by the actions of the Governor or Legislature, and to perform such other duties as the legislature may from time to time assign to the Division.

(b) The director of the division shall be named by the Governor to serve at his will and pleasure.

(c) The director of the division shall take and subscribe to an oath of office in conformity with article IV, section five of the Constitution of the State of West Virginia.

§15-9A-3 Duties and powers of the director.

(a) The director is responsible for the control and supervision of the division.

(b) The director shall be charged with executive and administrative responsibility to: (i) carry out the specific duties imposed on the Governor’s Committee on Crime,
Delinquency and Correction under the provisions of article nine, chapter fifteen; article twenty-nine, chapter thirty; and article eleven-c, chapter sixty-two of this code; (ii) maintain appropriate liaison with federal, state and local agencies and units of government, or combinations thereof, in order that all programs, projects and activities for strengthening and improving law enforcement and the administration of criminal justice may function effectively at all levels of government; and (iii) seek sources of federal grant assistance programs that may benefit the state when authorized by the Governor and manage the dispersal of those funds through grant contracts to sub-grantees in a manner consistent with state and federal law, and with sound and accountable management practices for the efficient and effective use of public funds.

(c) The director may:

(1) Employ necessary personnel, assign them the duties necessary for the efficient management and operation of the division;

(2) Work to bridge gaps between federal, state and local units of government, as well as private/non-profit organizations and the general public;

(3) Provide staff assistance in the coordination of all facets of the criminal and juvenile justice systems on behalf of the Governor’s Committee on Crime Delinquency and Correction, including but not limited to law enforcement, jails, corrections, community corrections and victim services;

(4) Acquire criminal justice resources and coordinate the allocation of these resources to state, local and not-for-profit agencies;
(5) Maintain a web based data base for all community correction programs;

(6) Through the Criminal Justice Statistical Analysis Center, collect, compile, and analyze crime and justice data in the state, generating statistical and analytical products for criminal justice professionals professional and policy makers to establish a basis for sound policy and practical considerations for the criminal justice system and make such recommendations for system improvement as may be warranted by such research;

(7) Receive and disburse federal and state grants.

Nothing in this chapter shall be construed as authorizing the division to undertake direct operational responsibilities in law enforcement or the administration of criminal justice.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect July 1, 2010.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April, 2010.

Governor
PRESENTED TO THE
GOVERNOR
MAR 9 2010
Time 10:05h