

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled
Committee Substitute
for

Senate Bill 865

BY SENATORS WOODRUM, WOELFEL, MARONEY, AND

GRADY

[Passed March 6, 2024; in effect from passage]

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SECRETARY OF STATE

SB 865

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1 AN ACT to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §29-1-1 of said code, all relating to adding the Educational
3 Broadcasting Commission as a section under the Department of Arts, Culture and History
4 as a separate, but not independent agency; changing the designation of the Division of
5 Culture and History as a separate independent agency to an agency within the Executive
6 Branch as the Department of Arts, Culture, and History; adding the Educational
7 Broadcasting Commission as one of the eight sections within the Department of Arts,
8 Culture, and History; and adding the Educational Broadcasting Council as one of the
9 citizen commissions existing within the Department of Arts, Culture, and History.

Be it enacted by the Legislature of West Virginia:

**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.

- 1 (a) The following agencies and boards, including all of the allied, advisory, affiliated, or
2 related entities and funds associated with any agency or board, are incorporated in and
3 administered as a part of the Department of Administration:
- 4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
 - 5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
 - 6 (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
 - 7 (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this
8 code;
 - 9 (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;
 - 10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
 - 11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;

- 12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- 13 (9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- 14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and
- 15 (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

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

19 (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

20 (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of
21 this code; and

22 (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*
23 of this code.

24 (2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code.

25 The following boards are transferred to the Office of Miners' Health, Safety, and Training for
26 purposes of administrative support and liaison with the Office of the Governor:

27 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review
28 Committee provided in §22A-6-1 *et seq.* of this code;

29 (B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of
30 this code; and

31 (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

32 (3) Division of Natural Resources and Natural Resources Commission provided in §20-1-
33 1 *et seq.* of this code;

34 (4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

35 (5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

36 (6) Workforce West Virginia provided in chapter 21A of this code, which includes:

37 (A) Division of Unemployment Compensation;

38 (B) Division of Employment Service;

39 (C) Division of Workforce Development;

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

41 (7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

42 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is
43 continued as an independent agency within the executive branch.

44 (d) The Water Development Authority and the Water Development Authority Board
45 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the
46 executive branch.

47 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
48 this code is continued as a separate agency within the Department of Arts, Culture, and History,
49 which shall provide administrative support for the authority.

50 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
51 continued as an agency within the Executive Branch as the Department of Arts, Culture, and
52 History. All references throughout this code to the "Division of Culture and History" mean the
53 "Department of Arts, Culture, and History".

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

57 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

58 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

59 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of
60 this code;

61 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

62 (5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

63 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

64 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

65 (h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards,
66 including all of the allied, advisory, affiliated, or related entities and funds associated with any
67 agency or board, are incorporated in and administered as a part of the Department of Health:

68 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

69 (2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

70 (3) Office of Emergency Medical Services and the Emergency Medical Service Advisory
71 Council provided in §16-4C-1 *et seq.* of this code;

72 (4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

73 (5) The Developmental Disabilities Council established by Executive Order No. 6-88 and
74 continued by Executive Order No. 15-99;

75 (i) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards,
76 including all of the allied, advisory, affiliated, or related entities and funds associated with any
77 agency or board, are incorporated in, and administered as a part of, the Department of Human
78 Services:

79 (1) Women's Commission provided in §29-20-1 *et seq.* of this code; and

80 (2) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

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

84 (1) West Virginia State Police;

85 (2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and
86 Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided, That*
87 *notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule*
88 *promulgated thereunder, a reference is made to the Division of Homeland Security and*
89 *Emergency Management, it shall be construed to mean the Division of Emergency Management;*

- 90 (3) Division of Administrative Services;
- 91 (4) Division of Corrections and Rehabilitation;
- 92 (5) Fire Commission;
- 93 (6) State Fire Marshal;
- 94 (7) Board of Probation and Parole;
- 95 (8) The West Virginia Fusion Center;
- 96 (9) Division of Protective Services; and
- 97 (10) Any other agency or entity hereinafter established within the Department of Homeland
98 Security by an act of the Legislature.

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

- 102 (1) Tax Division provided in §11-1-1 *et seq.* of this code;
- 103 (2) Racing Commission provided in §19-23-1 *et seq.* of this code;
- 104 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this
105 code;
- 106 (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;
- 107 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of
108 this code and §60-2-1 *et seq.* of this code;
- 109 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;
- 110 (7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;
- 111 (8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;
- 112 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;
- 113 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;
- 114 (11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and
- 115 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

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

119 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

120 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

121 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

122 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

123 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

124 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

125 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

126 (m) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code,
127 including all of the allied, advisory, affiliated, or related entities and funds associated with it, is
128 incorporated in and administered as a part of the Department of Veterans' Assistance.

129 (n) Except for powers, authority, and duties that have been delegated to the secretaries
130 of the departments by §5F-2-2 of this code, the position of administrator and the powers, authority,
131 and duties of each administrator and agency are not affected by the enactment of this chapter.

132 (o) Except for powers, authority, and duties that have been delegated to the secretaries
133 of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards
134 and the membership, terms, and qualifications of members of the boards are not affected by the
135 enactment of this chapter. All boards that are appellate bodies or are independent decision
136 makers may not have their appellate or independent decision-making status affected by the
137 enactment of this chapter.

138 (p) Any department previously transferred to and incorporated in a department by prior
139 enactment of this section means a division of the appropriate department. Wherever reference is
140 made to any department transferred to and incorporated in a department created in §5F-1-2 of
141 this code, the reference means a division of the appropriate department and any reference to a

142 division of a department so transferred and incorporated means a section of the appropriate
143 division of the department.

144 (q) When an agency, board, or commission is transferred under a bureau or agency other
145 than a department headed by a secretary pursuant to this section, that transfer is solely for
146 purposes of administrative support and liaison with the Office of the Governor, a department
147 secretary, or a bureau. Nothing in this section extends the powers of department secretaries
148 under §5F-2-2 of this code to any person other than a department secretary and nothing limits or
149 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
150 code.

151 (r) The Department of Economic Development as established in §5B-2-1 *et seq.* of this
152 code is continued as a separate independent agency within the Executive Branch.

153 (s) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued
154 as a separate independent agency within the Executive Branch.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-1. Division of Culture and History continued as the Department of Arts, Culture, and History; sections and commissions; purposes; definitions; effective date.

1 (a) The Division of Culture and History heretofore created is hereby continued as the
2 Department of Arts, Culture, and History. The Governor shall nominate and, by and with the
3 advice and consent of the Senate, appoint the Cabinet Secretary of Arts, Culture, and History,
4 who shall be the chief executive officer of the department and shall be paid an annual salary as
5 provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A bachelor's degree
6 in one of the fine arts, social sciences, library science, or a related field; or (2) four years'
7 experience in the administration of museum management, public administration, arts, history, or
8 a related field.

9 (b) The department shall consist of eight sections as follows:

10 (1) The arts section;

11 (2) The archives and history section;

12 (3) The museums section;

13 (4) The historic preservation section;

14 (5) The state library section;

15 (6) The National Coal Heritage Area Commission;

16 (7) The administrative section; and

17 (8) The Educational Broadcasting Commission.

18 (c) The department shall also consist of four citizens commissions as follows:

19 (1) A Commission on the Arts;

20 (2) A Commission on Archives and History;

21 (3) A Library Commission; and

22 (4) An Educational Broadcasting Council.

23 (d) The secretary shall exercise control and supervision of the department and shall be
24 responsible for the projects, programs, and actions of each of its sections. The purpose and duty
25 of the department is to advance, foster, and promote the creative and performing arts and crafts,
26 including both indoor and outdoor exhibits and performances; to advance, foster, promote,
27 identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and
28 significant architectural sites, structures, and objects in the state; to encourage the promotion,
29 preservation, and development of significant sites, structures, and objects through the use of
30 economic development activities such as loans, subsidies, grants, and other incentives; to
31 coordinate all cultural, historical, and artistic activities in state government and at state-owned
32 facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of
33 historical interest or importance; and, in general, to do all things necessary or convenient to
34 preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of

35 these purposes and duties, the secretary shall report directly to the Governor as a secretary for
36 both the intrinsic and extrinsic value for individuals, communities, and the economy of the arts,
37 humanities, culture, and history in West Virginia. As such, the secretary shall represent the
38 Department of Arts, Culture, and History as a full participating member in meetings of the
39 secretaries of the departments created in §5F-1-2 of this code that are convened at the call of the
40 Governor.

41 (e) The department has jurisdiction and control and may set and collect fees for the use
42 of all space in the building presently known as the West Virginia Science and Culture Center,
43 including the deck and courtyards forming an integral part thereof; the building presently known
44 as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances
45 thereof; "Camp Washington Carver" in Fayette County, as provided in §29-1-14 of this code; and
46 any other sites as may be transferred to or acquired by the department. Notwithstanding any
47 provision of this code to the contrary, beginning on and after July 1, 2018, the department shall
48 have responsibility for, and control of, all visitor touring and visitor tour guide activities within the
49 Capitol Building at Charleston.

50 (f) For the purposes of this article, "commissioner" or "curator" means the Cabinet
51 Secretary of Arts, Culture, and History, and "division" or "department" means the Department of
52 Arts, Culture and History. References throughout this code to the "Commissioner of Culture and
53 History" mean the "Cabinet Secretary of Arts, Culture, and History", and references throughout
54 this code to the "Division of Culture and History" mean the "Department of Arts, Culture, and
55 History".

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

Joe Lavin
.....
Clerk of the Senate

Steve Harmon
.....
Clerk of the House of Delegates

Originated in the Senate.

In effect from passage.

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

G. P. Mason
.....
President of the Senate

Ray Hensley
.....
Speaker of the House of Delegates

The within is *approved* this the *27th*
Day of *March*, 2024.

James E. Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 11 2024

Time 2:04pm