

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 586

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced January 22, 2020; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §5F-2-1 of said code; to amend and reenact §15-5-3 of said code; to amend
 3 and reenact §15A-1-2 and §15A-1-3 of said code; and to amend said code by adding
 4 thereto a new section, designated §15A-1-9, all relating to reorganizing and redesignating
 5 the Department of Military Affairs and Public Safety as the Department of Homeland
 6 Security; clarifying the divisions that report to the cabinet secretary; designating the
 7 Department of Homeland Security as the State Administrative Agency for homeland
 8 security and emergency management grants; establishing the powers and duties of the
 9 Secretary of Homeland Security; removing the Adjutant General's Office, State Armory
 10 Board, and Military Awards Board from the Department of Military Affairs and Public
 11 Safety; clarifying the agencies established within the Department of Military Affairs and
 12 Public Safety; redesignating the Division of Homeland Security and Emergency
 13 Management as the Division of Emergency Management; and making the employees of
 14 the Division of Emergency Management classified-exempt employees.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. GENERAL PROVISIONS.

§5F-1-2. Executive departments created; offices of secretary created.

1 (a) There are created, within the executive branch of the state government, the following
 2 departments:

- 3 (1) Department of Administration;
- 4 (2) Department of Environmental Protection;
- 5 (3) Department of Health and Human Resources;
- 6 (4) Department of ~~Military Affairs and Public Safety~~ Homeland Security;

- 7 (5) Department of Revenue;
- 8 (6) Department of Transportation;
- 9 (7) Department of Commerce; and
- 10 (8) Department of Veterans' Assistance.

11 (b) Each department will be headed by a secretary appointed by the Governor with the
 12 advice and consent of the Senate. Each secretary serves at the will and pleasure of the Governor.

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) The 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) The West Virginia Development Office provided in §5B-2-1 *et seq.* of this code;

33 (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-
34 1 *et seq.* of this code;

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

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

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

38 (A) Division of Unemployment Compensation;

39 (B) Division of Employment Service;

40 (C) Division of Workforce Development; and

41 (D) Division of Research, Information and Analysis.

42 (8) Office of Energy, within the Development Office, provided in §5B-2F-1 *et seq.* of this

43 code.

44 (9) West Virginia Tourism Office and Tourism Commission provided in §5B-2I-1 *et seq.* of
45 this code; and

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

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

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

52 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of
53 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each
54 continued as separate independent agencies within the Department of Arts, Culture and History,
55 which shall provide administrative support for both entities.

56 (f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is
57 continued as a separate independent agency within the Executive Branch as the Department of
58 Arts, Culture and History. All references throughout this code to the “Division of Culture and
59 History” means the “Department of Arts, Culture and History”.

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

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

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

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

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

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

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

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

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

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

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

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

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

79 (5) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this code;

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

81 (7) Bureau for Child Support Enforcement provided in chapter 48 of this code.

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

85 ~~(1) Adjutant General's Department provided in §15-1A-1 *et seq.* of this code;~~

86 ~~(2) State Armory Board provided in §15-6-1 *et seq.* of this code;~~

87 ~~(3) Military Awards Board provided in §15-1G-1 *et seq.* of this code~~

88 ~~(4) (1) West Virginia State Police; provided in §15-2-1 *et seq.* of this code~~

89 ~~(5) (2) Division of Homeland Security and Emergency Management and Disaster
90 Recovery Board provided in §15-5-1 *et seq.* of this code and Emergency Response Commission
91 provided in §15-5A-1 *et seq.* of this code: Provided, That notwithstanding any other provision of~~

92 this code to the contrary, whenever in this code, or a rule promulgated thereunder, a reference is

93 made to the Division of Homeland Security and Emergency Management, it shall be construed to

94 mean the Division of Emergency Management;

- 95 ~~(6) Sheriffs' Bureau provided in §15-8-1 et seq. of this code~~
- 96 ~~(7) (3) Division of Justice and Community Administrative Services; provided in §15-9A-4~~
- 97 ~~et seq. of this code~~
- 98 ~~(8) (4) Division of Corrections and Rehabilitation; provided in chapter 25 § of this code~~
- 99 ~~(9) (5) Fire Commission; provided in §29-3-1 et seq. of this code~~
- 100 ~~(10) Regional Jail and Correctional Facility Authority provided in §31-20-1 et seq. of this~~
- 101 ~~code~~
- 102 (6) The State Fire Marshal; and
- 103 ~~(11) (7) Board of Probation and Parole; provided in §62-12-1 et seq. of this code~~
- 104 (8) The West Virginia Intelligence/Fusion Center;
- 105 (9) The Division of Protective Services; and
- 106 (10) Any other agency or entity hereinafter established within the Department of Homeland
- 107 Security by an act of the legislature.
- 108 (j) The following agencies and boards, including all of the allied, advisory, affiliated or
- 109 related entities and funds associated with any agency or board, are incorporated in and
- 110 administered as a part of the Department of Revenue:
- 111 (1) Tax Division provided in chapter 11 of this code;
- 112 (2) Racing Commission provided in §19-23-1 et seq. of this code;
- 113 (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;
- 114 (4) Insurance Commissioner provided in §33-2-1 et seq. of this code;
- 115 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 et seq. of
- 116 this code and §60-2-1 et seq. of this code;
- 117 (6) Board of Banking and Financial Institutions provided in §31A-3-1 et seq. of this code;
- 118 (7) Lending and Credit Rate Board provided in chapter 47A of this code;
- 119 (8) Division of Financial Institutions provided in §31A-2-1 et seq. of this code;
- 120 (9) The State Budget Office provided in §11B-2-1 et seq. of this code;

121 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

122 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and

123 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

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

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

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

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

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

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

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

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

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

137 (m) Except for powers, authority and duties that have been delegated to the secretaries
138 of the departments by the provisions of §5F-2-2 of this code, the position of administrator and the
139 powers, authority, and duties of each administrator and agency are not affected by the enactment
140 of this chapter.

141 (n) Except for powers, authority, and duties that have been delegated to the secretaries
142 of the departments by the provisions of §5F-2-2 of this code, the existence, powers, authority,
143 and duties of boards and the membership, terms and qualifications of members of the boards are
144 not affected by the enactment of this chapter. All boards that are appellate bodies or are
145 independent decision makers shall not have their appellate or independent decision-making
146 status affected by the enactment of this chapter.

147 (o) Any department previously transferred to and incorporated in a department by prior
 148 enactment of this section means a division of the appropriate department. Wherever reference is
 149 made to any department transferred to and incorporated in a department created in §5F-1-2 of
 150 this code, the reference means a division of the appropriate department and any reference to a
 151 division of a department so transferred and incorporated means a section of the appropriate
 152 division of the department.

153 (p) When an agency, board, or commission is transferred under a bureau or agency other
 154 than a department headed by a secretary pursuant to this section, that transfer is solely for
 155 purposes of administrative support and liaison with the Office of the Governor, a department
 156 secretary or a bureau. Nothing in this section extends the powers of department secretaries under
 157 §5F-2-2 of this code to any person other than a department secretary and nothing limits or
 158 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
 159 code.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-3. Division of ~~Homeland Security and Emergency Management~~ created.

1 (a) The ~~Office of Emergency Services~~ is continued as the Division of Homeland Security
 2 and Emergency Management is continued as the Division of Emergency Management, within the
 3 Department of ~~Military Affairs and Public Safety~~ Homeland Security. All of the allied, advisory,
 4 affiliated or related entities, and funds associated with the ~~Office of Emergency Services~~ Division
 5 of Homeland Security and Emergency Management and all its functions, personnel, and property,
 6 are transferred to, incorporated in, and administered as a part of the Division of ~~Homeland~~
 7 ~~Security and Emergency Management~~. Wherever the words "Office of Emergency Services" or
 8 "Division of Homeland Security and Emergency Management" appear in this code, they shall

9 mean the Division of ~~Homeland Security and~~ Emergency Management.

10 (b) A Director of the Division of ~~Homeland Security and~~ Emergency Management shall be
11 appointed by the Governor, by and with the advice and consent of the Senate. The Governor shall
12 consider applicants for director who at a minimum: (1) Have at least five years managerial or
13 strategic planning experience; (2) are knowledgeable in matters relating to public safety,
14 homeland security, emergency management and emergency response; and (3) have, at a
15 minimum, a federally issued secret level security clearance or have submitted to or will submit to
16 a security clearance investigation for the purpose of obtaining, at a minimum, a federally issued
17 secret level security clearance.

18 (c) The director may employ such technical, clerical, stenographic, and other personnel,
19 fix their compensation and make expenditures within the appropriation to the division or from other
20 funds made available for the purpose of providing homeland security and emergency
21 management services to carry out the purpose of this article. ~~Employees of the Division of~~
22 ~~Homeland Security and Emergency Management shall be members of the state Civil Service~~
23 ~~System and all appointments of the office, except those required by law to be exempt, shall be a~~
24 ~~part of the classified service under the Civil Service System: Provided, That the director may~~
25 ~~employ personnel that are not members of the Civil Service System for purposes provided in §15-~~
26 ~~5-3(g) of this code. Beginning on the effective date of this section, all employees of the Division~~
27 ~~Emergency Management is exempt from the Civil Service System: *Provided, That employees of*~~
28 ~~the Division of Homeland Security and Emergency Management who are currently members of~~
29 ~~the classified service, having been transferred to the Division of Emergency Management, retain~~
30 ~~their classified service as long as they remain in their current classification. Thereafter, if the~~
31 ~~employee leaves his or her current classification and maintains employment in the Division of~~
32 ~~Emergency Management, that employee, at that time, becomes transferred to the classified-~~
33 ~~exempt service as that term is defined in §29A-6-2 of this code.~~

34 (d) The director and other personnel of the Division of ~~Homeland Security and~~ Emergency

35 Management shall be provided with appropriate office space, furniture, equipment, supplies,
36 stationery, and printing in the same manner as provided for personnel of other state agencies.

37 (e) The director, subject to the direction and control of the Governor through the Secretary
38 of the Department of ~~Military Affairs and Public Safety~~ Homeland Security, shall be the executive
39 head of the Division of ~~Homeland Security and Emergency Management~~ and shall be responsible
40 to the Governor and the Secretary of the Department of ~~Military Affairs and Public Safety~~
41 Homeland Security for carrying out the program for ~~homeland security and~~ emergency
42 management in this state. The director, in consultation with the Secretary of the Department of
43 ~~Military Affairs and Public Safety~~ Homeland Security, shall coordinate the activities of all
44 organizations for ~~homeland security and~~ emergency management within the state and maintain
45 liaison with and cooperate with homeland security, emergency management and other
46 emergency service and civil defense agencies and organizations of other states and of the federal
47 government, and shall have additional authority, duties, and responsibilities authorized by §15-5-
48 1 *et seq.* of this code as may be prescribed by the Governor or the Secretary of the Department
49 of ~~Military Affairs and Public Safety~~ Homeland Security.

50 (f) The director shall have the power to acquire in the name of the state by purchase,
51 lease, or gift, real property and rights or easements necessary or convenient to construct thereon
52 the necessary building or buildings for housing ~~and homeland security~~ and an emergency
53 management control center.

54 (g) The director may, for the purposes of responding to a declared state of emergency or
55 for the recovery from a declared state of emergency following the termination of the declaration,
56 employ personnel or enter into contracts and subcontracts for goods or specialized technical
57 services, subject to the following provisions:

58 (1) Employee positions shall be contingent on the receipt of the necessary federal and/or
59 state funds.

60 (2) All employees employed pursuant to this subsection shall be exempt from both the

61 classified services category and the classified exempt services category provided in §29-6-4 of
62 this code.

63 (3) Each employee hired shall be deemed an at-will employee who may be discharged or
64 released from his or her respective position without cause or reason.

65 (4) Employees may participate in the PEIA, PERS, workers’ compensation, unemployment
66 compensation programs, or their equivalents.

67 (5) The director shall set appropriate salary rates for employees equivalent to a rate
68 commensurate with industry standards.

69 (6) Contracts may be entered into pursuant to this subsection with the federal government,
70 its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies
71 and instrumentalities, municipalities, foreign governments, public bodies, private corporations,
72 partnerships, associations and individuals for specialized technical services at a rate
73 commensurate with industry standards as determined by the director to support specific activities
74 related to the response to or the recovery from a declared state of emergency.

**CHAPTER 15A. DEPARTMENT OF ~~MILITARY AFFAIRS AND PUBLIC~~
~~SAFETY~~ HOMELAND SECURITY.**

ARTICLE 1. DEFINITIONS.

§15A-1-2. “Department.”

1 “Department” means the Department of ~~Military Affairs and Public Safety~~ Homeland
2 Security.

§15A-1-3. “Secretary.”

1 “Secretary” means the Secretary of the Department of ~~Military Affairs and Public Safety~~
2 Homeland Security.

**§15A-1-9. Department of Homeland Security; Secretary of the Department of Homeland
Security; powers and duties.**

1 (a)(1) The Department of Homeland Security is established within the Executive Branch
2 as a criminal justice agency. In addition to all other powers and duties set forth in this code, the
3 department is designated as the principal state agency to coordinate the receipt, distribution, and
4 monitoring of all funds available from any source for the purpose of equipping, training, research,
5 and education in regard to homeland security related items, issues, or services. The department
6 is authorized to coordinate and establish standards for all operations and activities of the state
7 related to homeland security efforts and to establish protocols for coordinating and sharing
8 information with state and federal law enforcement and intelligence agencies responsible for
9 investigating and collecting information related to homeland security and national security threats.

10 (2) The department is designated as the state administrative agency responsible for
11 homeland security and emergency management for the planning and development of state
12 programs and grants which may be funded by federal, state, or other allocations in the areas of
13 homeland security, emergency management, public safety, community corrections, law-
14 enforcement training and compliance, sexual assault forensic examinations, victim services,
15 human trafficking, and juvenile justice unless such administration has been specifically entrusted
16 to another state agency by the Governor or the Legislature.

17 (3) Notwithstanding any other provision of this code to the contrary, whenever in this code,
18 or a rule promulgated thereunder, a reference is made to the Department of Military Affairs and
19 Public Safety, it means the Department of Homeland Security.

20 (b) The secretary is the chief executive officer of the department. Subject to §5F-2-2 of
21 this code, the secretary shall organize the department into such offices, sections, agencies and
22 other units of activity as may be found by the secretary to be desirable for the orderly, efficient
23 and economical administration of the department and for the accomplishment of its objects and
24 purposes. The secretary may appoint a deputy secretary, chief of staff, assistants, hearing
25 officers, clerks, stenographers, and other officers, technical personnel, and employees needed
26 for the operation of the department and may prescribe their powers and duties and fix their

27 compensation within amounts appropriated.

28 (c) The secretary has the power to and may designate supervisory officers or other officers
29 or employees of the department to substitute for him or her on any board or commission
30 established under this code or to sit in his or her place in any hearings, appeals, meetings or other
31 activities with such substitute having the same powers, duties, authority, and responsibility as the
32 secretary. The secretary has the power to delegate, as he or she considers appropriate, to
33 supervisory officers or other officers or employees of the department his or her powers, duties,
34 authority and responsibility relating to such duties and functions set forth in this chapter or
35 elsewhere in this code.

36 (d) The secretary has responsibility for the conduct of the intergovernmental relations of
37 the department, including assuring:

38 (1) That the department carries out its functions in a manner which supplements and
39 complements the homeland security and public safety policies, programs and procedures of the
40 federal government, other state governments, and other instrumentalities of this state; and

41 (2) That appropriate officers and employees of the department consult with individuals
42 responsible for making policy relating to homeland security and public safety issues in the federal
43 government, other state governments, and other instrumentalities of this state concerning
44 differences over policies, programs, and procedures and concerning the impact of statutory law
45 and rules upon the homeland security and public safety of this state.

46 (e) In addition to other powers, duties, and responsibilities granted and assigned to the
47 secretary by this code, the secretary is authorized and empowered to:

48 (1) Sign and execute in the name of the state by the Department of Homeland Security
49 any contract or agreement with the federal government or its departments or agencies,
50 subdivisions of the state, corporations, associations, partnerships or individuals: *Provided*, That
51 the powers granted to the secretary to enter into agreements or contracts and to make
52 expenditures and obligations of public funds under this subdivision may not exceed or be

53 interpreted as authority to exceed the powers granted by the Legislature to the various
54 commissioners, directors, or board members of the various departments, agencies, or boards that
55 comprise and are incorporated into each secretary's department pursuant to the provisions of
56 chapter 5F of this code;

57 (2) Conduct research in improved homeland security and public safety methods and
58 disseminate information to the citizens of this state;

59 (3) Require any persons contracting to install, establish, modify, operate, or close a
60 correctional or other public safety facility to furnish the fingerprints of the person or persons; any
61 officer, director, or manager of the contractor; any person owning a five percent or more interest,
62 beneficial or otherwise, in the contractor's business; or any other person conducting or managing
63 the affairs of the contractor, in whole or in part. These fingerprints may be used to obtain and
64 review any police record for the purposes that may be in the interest of homeland security or
65 public safety, and to use the fingerprints furnished to conduct a criminal records check through
66 the Criminal Identification Bureau of the West Virginia State Police and a national criminal history
67 check through the Federal Bureau of Investigation. The results of the checks shall be provided to
68 the secretary.

69 (4) Acquire for the state in the name of the Department of Homeland Security by purchase,
70 condemnation, lease, or agreement, or accept or reject for the state, in the name of the
71 Department of Homeland Security, gifts, donations, contributions, bequests, or devises of money,
72 security, or property, both real and personal, and any interest in property;

73 (5) Provide for workshops, training programs, and other educational programs, apart from
74 or in cooperation with other governmental agencies, necessary to ensure adequate standards of
75 public service in the department. The secretary may provide for technical training and specialized
76 instruction of any employee. Approved educational programs, training and instruction time may
77 be compensated for as a part of regular employment. The secretary is authorized to pay out of
78 federal or state funds, or both, as such funds are available, fees and expenses incidental to the

79 educational programs, training and instruction. Eligibility for participation by employees shall be
80 in accordance with guidelines established by the secretary; and

81 (f) The secretary shall be appointed by the Governor, by and with the advice and consent
82 of the Senate and serves at the will and pleasure of the Governor.

83 (g) The secretary shall serve as the Homeland Security Advisor (HSA) for West Virginia,
84 and shall be responsible for coordinating, designing, and implementing West Virginia's program
85 for homeland security. The secretary shall be the principal point of contact between the State of
86 West Virginia and the federal government with respect to homeland security issues. The HSA
87 shall either possess at least a secret clearance through the federal government or be able to
88 qualify for, and be in the process of obtaining, such clearance at the time of his or her appointment
89 as HSA. The HSA shall keep the Governor advised of all homeland security matters and shall be
90 the main point of contact for the Governor on these issues. The secretary, with permission of the
91 Governor, may delegate all or a portion of the functions of the HSA to a designee who possesses
92 at least a secret clearance.

93 (h) Notwithstanding any other provision of this code to the contrary, any records compiled
94 by the department or any division, agency, office, or unit thereof, the disclosure of which could be
95 used to create an endangerment to municipal, county, state, or national welfare and security, are
96 not public records and are not subject to disclosure in response to a Freedom of Information Act
97 request under § 29B-1-1 et seq. of this code.

NOTE: The purpose of this bill is to reorganize and re-designate the Department of Military Affairs and Public Safety as the Department of Homeland Security and designate the Department of Homeland Security as the State Administrative Agency for homeland security and emergency management grants. The bill also establishes the powers and duties of the Secretary of Homeland Security; removes the Adjutant General's Office, State Armory Board, and Military Awards Board from the Department of Military Affairs and Public Safety; clarifies the agencies established within the Department of Military Affairs and Public Safety; and re-designates the Division of Homeland Security and Emergency Management as the Division of Emergency Management.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.