

This information is directly from your textbook.

As you learned in Chapter 5, the U.S. Constitution, the supreme law of the land, established a federal system of government. Although a federal system provides for a strong national government with specific powers, it also preserves a certain amount of self-rule by the states. Under this system, states have certain rights, like the power to establish education systems, issue licenses, and regulate trade within the state. Other powers, however, are concurrent, or shared by the national and state governments. Levying taxes, borrowing money, making and enforcing laws, and establishing courts are examples of concurrent powers.

Although much attention is focused on the national and state government, the government that is closest to the people is local government—either county or city. There are divisions of authority between state and local governments, but they too share responsibility in certain areas, such as schools and roads. Local governments are more likely to anticipate the needs of the citizens and, as a result, play a vital role in the lives of the people of West Virginia.

A History of West Virginia Government

As you read, look for

- the current West Virginia constitution;
- the basic principles upon which West Virginia's government was formed;
- the similarities between the United States Constitution and the West Virginia constitution;
- the process used to amend the West Virginia constitution;
- term: preamble.

West Virginia has had only two constitutions. The first, which took effect in 1863, provided the guidelines under which the new state's government was created. The second, written in 1872, has been in effect for over one hundred thirty years.

The framers of the West Virginia constitution of 1872 left no doubt that they understood the principle of federalism. In Article I, the constitution states, "The State of West Virginia is, and shall remain, one of the United States of America. The Constitution of the United States of America and the laws and treaties made in pursuance thereof, shall be the supreme law of the land." The language found in the West Virginia constitution clearly recognizes the federal government as the supreme authority.

Most constitutions begin with a preamble (the introductory part of a document; a statement of purpose). West Virginia's constitution, however, did not have a preamble until 1960.

Principles of West Virginia Government

In addition to the principle of federalism, the West Virginia constitution is based on the democratic principles of sovereignty, limited government, separation of powers, and checks and balances. The preamble to the West Virginia constitution demonstrates the principle of sovereignty when it states: "we, the people of West Virginia, in and through the provisions of this Constitution, . . ." The people set up the government and are "sovereign" over it. In other words, the people are all powerful, and government only exists with their consent. All powers come from and rest with the people.

The West Virginia constitution limits the power of government to the powers granted to it by the people. All government originates through the consent of the people for the good of the whole. The government is not above the law; it must exist under the rule of law. When the government violates the trust of the people, the people can change it through the ballot box.

The principle of separation of powers is based on the idea that too much power given to one person or a group of persons could threaten people's freedoms. According to the state constitution, the powers of West Virginia's government are divided among the legislative, executive, and judicial branches. The legislative branch is the lawmaking body for the state and consists of the House of Delegates and the Senate. The governor, as head of the executive branch, enforces, executes, and administers the laws of the state. The judicial branch consists of the Supreme Court of Appeals and other state courts, which interpret and apply the laws of the state of West Virginia.

To keep any one branch from getting too powerful, the West Virginia constitution, like the United States Constitution, created a system of checks and balances. Each branch of government can use its powers to promote equality among the branches. For example, the Legislature has the power to make laws, but the governor can veto those laws. In turn, the Legislature can override a governor's veto by a majority vote in each house. The state supreme court can declare an act of the other branches unconstitutional.

Amending the West Virginia Constitution

An important part of all constitutions is the amendment process. The West Virginia constitution may be amended in one of two ways. The usual process begins in the Legislature, where an amendment may be proposed in either house. If two-thirds of the members of each house of the Legislature approve the proposed amendment, the issue is placed on the ballot to be approved or rejected by the voters of the state. If a majority of the voters ratify the amendment, it becomes a part of the state constitution and is in force from the time of the ratification.

Amendments may also be made by a constitutional convention called for that purpose. Citizens of the state vote to select the delegates to the convention. The people must also vote to approve any amendments proposed by delegates at that convention. Some amendments to the West Virginia constitution have not changed the role of government, while others have had a great impact. An amendment in 1960 simply added a preamble to the constitution. One passed in 1970 allowed the governor to serve two consecutive terms. Another amendment, passed in 2000, established a family court system.

Figure 2.2 Amending the Constitutions		
	West Virginia Constitution	United States Constitution
Amendment process	<ol style="list-style-type: none"> 1. Proposed by constitutional convention and approved by a majority of both houses of the Legislature and a majority of the voters. 2. Proposed by two-thirds of members of both houses of the Legislature and approved by a majority of the voters of the state. 	<ol style="list-style-type: none"> 1. Proposed by constitutional convention and approved by two-thirds of state legislatures. 2. Proposed by two-thirds of members of both houses of Congress and approved by three-fourths of the legislatures of the states or by three-fourths of the constitutional conventions called for that purpose.
Most recent amendment(s)	No state constitutional right to or funding for abortion; Judiciary budget controlled by Legislature (2018)	Restriction of Pay Raises for Congress (1992)
Deadline on ratification period	At next general election or at special election called for that purpose	None unless specified in proposed amendment

Comprehension Questions: Principals of WV Government

1. What are the democratic principles on which West Virginia's government is based?
2. What do the United States and the West Virginia constitutions have in common?
3. How can the West Virginia constitution be changed? (2 ways)

The Three Branches of State Government

As you read, look for:

- the names of the three branches of government;
- the organization and powers of each branch of government;
- sources of revenue and expenditures of state government;
- terms: apportionment, census, governor, board of public works, supreme court of appeals, circuit court, felony, misdemeanor, magistrate court, family court, deficit spending, revenue, expenditure, graduated income tax, sales tax, use tax, excise tax, severance tax.

Just like the national government, West Virginia's state government is organized into three branches—legislative, executive, and judicial. Each of these branches has specific powers and is organized to provide checks to keep the other branches from becoming too powerful.

The Legislative Branch of State Government

The legislative branch of the state government is called the Legislature. It has two houses—the Senate and the House of Delegates. Voters elect thirty-four senators (two from each of seventeen districts) and one hundred members of the House of Delegates from fifty-eight districts. A process called apportionment (the act of distributing something, in this case the population, according to a plan) determines the number of seats in the Senate and the House. Federal courts have ruled that seats in a state legislature must be allocated so that one person's vote in a district is worth as much as another person's. Sometimes called the "one man, one vote rule," this means that the districts from which West Virginia's senators and delegates are elected must contain approximately equal populations.

The population—in the country, states, and counties—does not always stay the same. To update population data, the national government takes a census (an actual count of the people) every ten years. The West Virginia constitution requires that the maps of the legislative districts be redrawn after every census to ensure that each district has about the same population.

MEMBERSHIP IN THE LEGISLATURE

Members of the West Virginia Senate are elected to four-year terms. Their terms are staggered so that one-half of the senators are elected biennially (every two years). Members of the House of Delegates are elected to two-year terms. Members of both houses may be reelected for an unlimited number of terms.

Any eligible voter in West Virginia may be elected to the Legislature. Members must, however, be state residents for at least one year before their election and residents of the districts they represent. Senators must be at least twenty-five years old, but delegates may be elected at age eighteen. No one who already holds an elected office, such as congressman or county clerk, may serve in the Legislature. Also, any person convicted of a serious crime cannot serve.

LEGISLATIVE SESSIONS

Regular legislative sessions begin in Charleston on the second Wednesday of January of each year. In the year following the election of a governor, however, the legislature begins its work on the second Wednesday in February and continues

for sixty days. The sixty-day regular session generally begins with the State of the State Address, in which the governor makes recommendations for legislation.

If the Legislature does not complete its work within the sixty days, the governor may call an extended session. In a governor-extended session, legislators can only work on the state budget. The legislators themselves may extend the regular session if two-thirds of the membership in both houses votes to do so. When this happens, the lawmakers may consider any issue. Although the Legislature rarely votes to extend the regular session, the governor has done so a number of times, allowing extra time to finalize the budget.

The governor may also call the Legislature into special session at any time if there is a problem or if three-fifths of the members of the Legislature make such a request in writing. Governors have called special sessions, but the Legislature itself has rarely done so.

POWERS OF THE LEGISLATURE

The best-known powers of the West Virginia Legislature are to pass laws and to make constitutional amendments. The Legislature, however, has a number of lesser-known powers. For example, the Legislature has the power to choose a new governor if the governor dies, is convicted of wrongdoing, or resigns. If there is a year or less remaining in the current governor's term, both houses of the Legislature must vote to name a new governor. If there is more than one year remaining in the governor's term, a general election is held to select a new governor.

The state Senate must approve many of the governor's appointments. Members of each house may punish colleagues for disorderly behavior. Representatives may, in fact, be expelled if two thirds of the membership agrees. The House of Delegates also has the power to impeach any officer of the state. The Senate tries (hears) impeachments; convictions must be by a two-thirds vote.

ORGANIZATION OF THE LEGISLATURE

The representatives themselves choose the presiding officers of both houses of the Legislature for two-year terms. The leader of the House of Delegates is called the speaker of the House, while the presiding officer of the Senate is called the president of the Senate-lieutenant governor. (Although the West Virginia constitution does not provide for the office of lieutenant governor, the title is assigned by law to the president of the state Senate.) The duties of both of these officers include presiding over the legislative sessions, enforcing and interpreting rules, making committee assignments, and referring bills to committees.

If the governor's office becomes vacant, the president of the Senate acts as governor until the vacancy is filled. If the president of the Senate cannot perform the duties of governor, the speaker of the House assumes the governor's duties for the one year or less that remains in the term.

In 2010, Earl Ray Tomblin, the President of the West Virginia Senate, became Acting Governor, following Joe Manchin's election to the United States Senate to replace Robert C. Byrd. On October 4, 2011, Tomblin was elected by the people as Governor of West Virginia in a special election to fill Manchin's unexpired term ending in January 2013.

THE LAWMAKING PROCESS

Laws begin as bills, and, as you will see, most of the work in the Legislature is done in committees. A bill may be introduced in either house of the Legislature. Sometimes the same bill is introduced in both. Usually, however, a bill originates in only one house and, if passed there, is sent to the other house for consideration. Suppose, for example, that a bill is introduced in the state House of Delegates.

At a set time, the clerk reads the title and number of the bill. The presiding officer assigns the bill to the appropriate committee for study. The committee discusses and perhaps revises the bill. The committee may hold hearings so interested persons and groups have the opportunity to tell the lawmakers what they think about the bill. After the committee votes, the bill is returned to the House with a recommendation that it be passed or rejected or with no recommendation at all. Occasionally, a bill "dies" in committee when the committee does not have time to discuss it.

When the bill is sent to the full House, it is placed on the calendar for consideration. Bills are read three times. During the first and second readings, the delegates may discuss, debate, and revise the bill. After the third reading, a final vote is taken. If a majority of delegates (one more than half) approve the bill, it is sent to the Senate, where the entire process is repeated.

A bill must pass both houses in exactly the same form in order to become law. If the bill passed by each house is different, it is referred to a conference committee where members from both houses work out any differences. The revised bill then goes back to both houses for another vote. Once both houses have approved a bill, it is sent to the governor.

The governor has five days to act on a bill and can sign the bill into law, veto the bill, or allow it to become law without a signature. If the governor vetoes a bill, lawmakers may then vote on the bill again. If a majority in each house approves it, the bill becomes law over the governor's veto. Budget or appropriations bills, however, require a two-thirds vote in each house to override a governor's veto.



Comprehension Questions: Legislative Branch

1. How many members are in each house of the WV Legislature?
2. What are the requirements to be a Senator? To be a Delegate?
3. How long is a Senate term? A House of Delegates term?
4. When does the regular session begin and how long is it?
5. List the powers of the legislature.
6. What happens if the governor's office becomes vacant through death, resignation, etc.?
7. What duties are given to the two presiding officers of the WV Legislature?

The Executive Branch of State Government

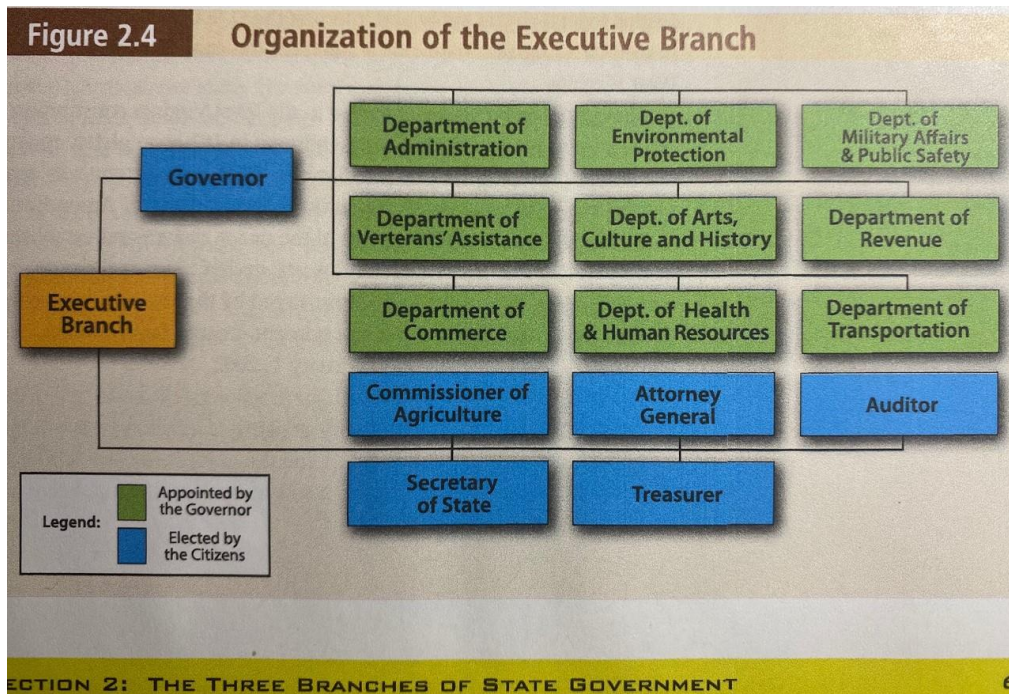
The governor heads the executive branch of state government. To be governor of West Virginia, a person must be at least thirty years of age and have lived in the state for at least five years before the election. The governor serves a four-year term and may serve two consecutive terms.

The Governor's Succession Amendment, passed in 1970, allows the governor to serve an unlimited number of terms, but prohibits anyone from serving three or more consecutive terms, regardless of whether they are whole or part terms. As of 2010, only two governors have served three terms. Arthur I. Boreman, West Virginia's first governor, served three 2-year terms. Arch A. Moore, Jr., served two consecutive terms (1969-1977) and later served a third term from 1985 to 1989.

The governor is responsible for overseeing the operation of the state government. The governor makes sure that the state laws are carried out, and he or she may propose new bills to the Legislature. As the chief financial officer for the state, the governor prepares and sends to the Legislature an annual budget (the state's plan for receiving and spending money). The governor is commander-in-chief of the state's military forces and may also grant pardons and reprieves for people convicted of crimes. With the approval of the state Senate, the governor appoints the heads of many of the state's agencies.

The governor may influence the Legislature in several ways. At the beginning of each legislative session, the governor makes a State of the State Address before a joint meeting of the Legislature. In the speech, the governor highlights certain matters and describes the budget. The governor may send messages to the Legislature or talk with the legislative leaders anytime during the legislative session in an effort to persuade them to support or oppose certain bills. The governor's greatest control, however, is the veto. Although the veto can be overridden by the Legislature, that has rarely happened.

The governor serves on many state boards and commissions. The governor also appears throughout the state at various functions and may make public appearances on behalf of political candidates. To keep the public informed, the governor may also hold press conferences.



OTHER STATE OFFICIALS

A number of elected constitutional officers or officials assist the governor.

- The secretary of state is the keeper of the Great and Less Seals of the State. The secretary is also in charge of all official state papers and records and serves as the chief election officer.
- The state treasurer receives state revenues and pays the state's bills.
- The state auditor serves as the state's official bookkeeper.
- The attorney general serves as the state's lawyer and is head of the state's legal department.
- The commissioner of agriculture sets standards, grades all farm products, identifies markets for farm products, and publishes agriculture and forestry reports and bulletins.
- The state superintendent of schools oversees the state's public school system, including teacher certification and textbook adoptions.

These six offices, along with the governor, make up the board of public works. Members of the board are elected to four-year terms except for the state superintendent of schools, who is appointed by the governor. One of the main roles of the board of public works is to determine the value of public utility property for tax purposes. (Public utilities include water, gas, and electric companies; telephone companies; pipelines, and freight and railroad companies.) The board also approves the purchase, transfer, or sale of state property; approves bonds to be issued by a state department or institution, county, board of education, or municipality; and establishes levies (taxes) on property at the rates set by law.

OTHER EXECUTIVE DEPARTMENTS

There are nine cabinet-level positions within the executive branch. These include:

- Department of Administration

- Department of Commerce
- Department of Education and the Arts
- Department of Environmental Protection
- Department of Health and Human Resources
- Department of Military Affairs and Public Safety
- Department of Revenue
- Department of Transportation
- Department of Veterans' Assistance

The governor appoints the head, or secretary, of each of these departments. The executive branch of state government also contains many agencies, boards, and commissions employing thousands of people. In 2011, government was the third-largest employer in the state. The largest number of West Virginia workers are employed in service industries, followed by trade associations.

Comprehension Questions: Executive Branch

1. What are the 9 cabinet departments in WV executive branch?
2. What offices make up the state's board of public works?
3. Which office of the board of public works is missing from the flow chart in Figure 2.4? Where would it go and what color should its box be?