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STATE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2006

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ENROLLED

Committee Substitute for

SENATE BILL NO. _____767_____

(By Senator _____Bowman, et al_____)

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PASSED _____March 11, 2006_____

In Effect _____from_____ Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 767

(SENATORS BOWMAN, HUNTER AND MINARD, *original sponsors*)

[Passed March 11, 2006; in effect from passage.]

AN ACT to amend and reenact §21A-2-6 of the Code of West Virginia, 1931, as amended, relating to the powers and duties of the Commissioner of the Bureau of Employment Programs; and authorizing the commissioner to promulgate rules authorizing state agencies to revoke the business license of an employing unit in default on unemployment compensation payments.

Be it enacted by the Legislature of West Virginia:

That §21A-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. THE COMMISSIONER OF THE BUREAU OF EMPLOYMENT PROGRAMS.

§21A-2-6. Powers and duties generally.

1   The commissioner is the executive and administrative
2   head of the bureau and has the power and duty to:

3   (1) Exercise general supervision for the governance of
4   the bureau and propose rules for promulgation in accor-
5   dance with the provisions of article three, chapter twenty-
6   nine-a of this code to implement the requirements of this
7   chapter;

8   (2) Prescribe uniform rules pertaining to investigations,
9   departmental hearings and propose rules for promulga-
10   tion;

11   (3) Supervise fiscal affairs and responsibilities of the
12   bureau;

13   (4) Prescribe the qualifications of, appoint, remove and
14   fix the compensation of the officers and employees of the
15   bureau, subject to the provisions of section ten, article four
16   of this chapter, relating to the board of review;

17   (5) Organize and administer the bureau so as to comply
18   with the requirements of this chapter and to satisfy any
19   conditions established in applicable federal law or regula-
20   tion;

21   (6) Make reports in the form and containing information
22   required by the United States Department of Labor and
23   comply with any requirements that the United States
24   Department of Labor finds necessary to assure the correct-
25   ness and verification of the reports;

26   (7) Make available to any agency of the United States
27   charged with the administration of public works or
28   assistance through public employment, upon its request,
29   the name, address, ordinary occupation and employment
30   status of each recipient of unemployment compensation
31   and a statement of the recipient's rights to further com-
32   pensation under this chapter;

33   (8) Keep an accurate and complete record of all bureau
34   proceedings, record and file all bonds and contracts and

35 assume responsibility for the custody and preservation of
36 all papers and documents of the bureau;

37   (9) Sign and execute in the name of the state, by the
38 "Bureau of Employment Programs", any contract or
39 agreement with the federal government, its agencies, other
40 states, their subdivisions or private persons;

41   (10) Prescribe a salary scale to govern compensation of
42 appointees and employees of the bureau;

43   (11) Make the original determination of right in claims
44 for benefits;

45   (12) Make recommendations and an annual report to the
46 Governor concerning the condition, operation and func-
47 tioning of the bureau;

48   (13) Invoke any legal or special remedy for the enforce-
49 ment of orders or the provisions of this chapter;

50   (14) Exercise any other power necessary to standardize
51 administration, expedite bureau business, assure the
52 establishment of fair rules and promote the efficiency of
53 the service;

54   (15) Keep an accurate and complete record and prepare
55 a monthly report of the number of persons employed and
56 unemployed in the state. The report shall be made avail-
57 able upon request to members of the public and press;

58   (16) Provide at bureau expense a program of continuing
59 professional, technical and specialized instruction for the
60 personnel of the bureau;

61   (17) (A) Propose rules for legislative approval in accor-
62 dance with the provisions of article three, chapter twenty-
63 nine-a of this code, under which agencies of this state shall
64 revoke or not grant, issue or renew any contract, license,
65 permit, certificate or other authority to conduct a trade,
66 profession or business to or with any employing unit
67 whose account is in default with the commissioner with

68 regard to the administration of this chapter. The term
69 "agency" includes any unit of state government such as
70 officers, agencies, divisions, departments, boards, commis-
71 sions, authorities or public corporations. An employing
72 unit is not in default if it has entered into a repayment
73 agreement with the Unemployment Compensation Divi-
74 sion of the bureau and remains in compliance with its
75 obligations under the repayment agreement.

76   (B) The rules shall provide that, before revoking, grant-
77 ing, issuing or renewing any contract, license, permit,
78 certificate or other authority to conduct a trade, profession
79 or business to or with any employing unit, the designated
80 agencies shall review a list or lists provided by the bureau
81 of employers that are in default. If the employing unit's
82 name is not on the list, the agency, unless it has actual
83 knowledge that the employing unit is in default with the
84 bureau, may grant, issue or renew the contract, license,
85 permit, certificate or other authority to conduct a trade,
86 profession or business. The list may be provided to the
87 agency in the form of a computerized database or data-
88 bases that the agency can access. Any objections to the
89 revocation or refusal to issue or renew shall be reviewed
90 under the appropriate provisions of this chapter.

91   (C) The rules may be promulgated or implemented in
92 phases so that specific agencies or specific types of con-
93 tracts, licenses, permits, certificates or other authority to
94 conduct trades, professions or businesses will be subject to
95 the rules beginning on different dates. The presumptions
96 of ownership or control contained in the Department of
97 Environmental Protection's surface mining reclamation
98 regulations promulgated under the provisions of article
99 three, chapter twenty-two of this code are not applicable
100 or controlling in determining the identity of employing
101 units who are in default for the purposes of this subdivi-
102 sion. The rules shall also provide a procedure allowing
103 any agency or interested person, after being covered under
104 the rules for at least one year, to petition the Bureau of

105   Employment Programs to be exempt from the provisions
106   of the rules;

107   (18) Deposit to the credit of the appropriate special
108   revenue account or fund, notwithstanding any other
109   provision of this code and to the extent allowed by federal
110   law, all amounts of delinquent payments or overpayments,
111   interest and penalties thereon and attorneys' fees and costs
112   collected under the provisions of this chapter.   The
113   amounts collected shall not be treated by the Auditor or
114   Treasurer as part of the general revenue of the state; and

115   (19) Enter into interagency agreements to assist in
116   exchanging information and fulfilling the provisions of
117   this article.

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

....
Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

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The within *is approved* .... this the *3/31* ....

Day of ......*March*.., 2006.

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Governor