

1 **H. B. 3012**

2  
3 (By Delegates White, T. Campbell, Cann and Kominar)  
4 [By Request of the Department of Administration]  
5 [Introduced February 4, 2011; referred to the  
6 Committee on Government Organization then the Judiciary.]  
7  
8  
9

10 A BILL to amend and reenact §5A-6-4 of the Code of West Virginia,  
11 1931, as amended, relating to clarifying that the Office of  
12 Technology is responsible for the retirement or transfer of  
13 information technology equipment that may contain confidential  
14 and privileged electronic data.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §5A-6-4 of the Code of West Virginia, 1931, as amended,  
17 be amended and reenacted to read as follows:

18 **ARTICLE 6. OFFICE OF TECHNOLOGY.**

19 **§5A-6-4. Powers and duties of the Chief Technology Officer;**  
20 **generally.**

21 (a) With respect to all state spending units the Chief  
22 Technology Officer may:

23 (1) Develop an organized approach to information resource  
24 management for this state;

1           (2) Provide technical assistance to the administrators of the  
2 various state spending units in the design and management of  
3 information systems;

4           (3) Evaluate the economic justification, system design and  
5 suitability of information equipment and related services, and  
6 review and make recommendations on the purchase, lease or  
7 acquisition of information equipment and contracts for related  
8 services by the state spending units;

9           (4) Develop a mechanism for identifying those instances where  
10 systems of paper forms should be replaced by direct use of  
11 information equipment and those instances where applicable state or  
12 federal standards of accountability demand retention of some paper  
13 processes;

14           (5) Develop a mechanism for identifying those instances where  
15 information systems should be linked and information shared, while  
16 providing for appropriate limitations on access and the security of  
17 information;

18           (6) Create new technologies to be used in government, convene  
19 conferences and develop incentive packages to encourage the  
20 utilization of technology;

21           (7) Engage in any other activities as directed by the  
22 Governor;

23           (8) Charge a fee to the state spending units for evaluations  
24 performed and technical assistance provided under the provisions of  
25 this section. All fees collected by the Chief Technology Officer

1 shall be deposited in a special account in the State Treasury to be  
2 known as the Chief Technology Officer Administration Fund.  
3 Expenditures from the fund shall be made by the Chief Technology  
4 Officer for the purposes set forth in this article and are not  
5 authorized from collections but are to be made only in accordance  
6 with appropriation by the Legislature and in accordance with the  
7 provisions of article three, chapter twelve of this code and upon  
8 the fulfillment of the provisions set forth in article two, chapter  
9 eleven-b of this code: *Provided*, That the provisions of section  
10 eighteen, article two, chapter eleven-b of this code shall not  
11 operate to permit expenditures in excess of the spending authority  
12 authorized by the Legislature. Amounts collected which are found  
13 to exceed the funds needed for purposes set forth in this article  
14 may be transferred to other accounts or funds and redesignated for  
15 other purposes by appropriation of the Legislature;

16       (9) Monitor trends and advances in information technology and  
17 technical infrastructure;

18       (10) Direct the formulation and promulgation of policies,  
19 guidelines, standards and specifications for the development and  
20 maintenance of information technology and technical infrastructure,  
21 including, but not limited to:

22       (A) Standards to support state and local government exchange,  
23 acquisition, storage, use, sharing and distribution of electronic  
24 information;

25       (B) Standards concerning the development of electronic

1 transactions, including the use of electronic signatures;

2 (C) Standards necessary to support a unified approach to  
3 information technology across the totality of state government,  
4 thereby assuring that the citizens and businesses of the state  
5 receive the greatest possible security, value and convenience from  
6 investments made in technology;

7 (D) Guidelines directing the establishment of statewide  
8 standards for the efficient exchange of electronic information and  
9 technology, including technical infrastructure, between the public  
10 and private sectors;

11 (E) Technical and data standards for information technology  
12 and related systems to promote efficiency and uniformity;

13 (F) Technical and data standards for the connectivity,  
14 priorities and interoperability of technical infrastructure used  
15 for homeland security, public safety and health and systems  
16 reliability necessary to provide continuity of government  
17 operations in times of disaster or emergency for all state, county  
18 and local governmental units; and

19 (G) Technical and data standards for the coordinated  
20 development of infrastructure related to deployment of electronic  
21 government services among state, county and local governmental  
22 units;

23 (11) Periodically evaluate the feasibility of subcontracting  
24 information technology resources and services, and to subcontract  
25 only those resources that are feasible and beneficial to the state;

1           (12) Direct the compilation and maintenance of an inventory of  
2 information technology and technical infrastructure of the state,  
3 including infrastructure and technology of all state, county and  
4 local governmental units, which may include personnel, facilities,  
5 equipment, goods and contracts for service, wireless tower  
6 facilities, geographic information systems and any technical  
7 infrastructure or technology that is used for law enforcement,  
8 homeland security or emergency services;

9           (13) Develop job descriptions and qualifications necessary to  
10 perform duties related to information technology as outlined in  
11 this article; and

12           (14) Promulgate legislative rules, in accordance with the  
13 provisions of chapter twenty-nine-a of this code, as may be  
14 necessary to standardize and make effective the administration of  
15 the provisions of article six of this chapter.

16           (b) With respect to executive agencies, the Chief Technology  
17 Officer may:

18           (1) Develop a unified and integrated structure for information  
19 systems for all executive agencies;

20           (2) Establish, based on need and opportunity, priorities and  
21 time lines for addressing the information technology requirements  
22 of the various executive agencies of state government;

23           (3) Exercise authority delegated by the Governor by executive  
24 order to overrule and supersede decisions made by the  
25 administrators of the various executive agencies of government with

1 respect to the design and management of information systems and the  
2 purchase, lease or acquisition of information equipment and  
3 contracts for related services;

4 (4) Draw upon staff of other executive agencies for advice and  
5 assistance in the formulation and implementation of administrative  
6 and operational plans and policies; ~~and~~

7 (5) Recommend to the Governor transfers of equipment and human  
8 resources from any executive agency and the most effective and  
9 efficient uses of the fiscal resources of executive agencies, to  
10 consolidate or centralize information-processing operations; and

11 (6) Insure information equipment is properly cleansed before  
12 disposal or transfer to another agency or organization. The Office  
13 of Technology is responsible for the retirement or transfer of  
14 information technology equipment that may contain confidential and  
15 privileged electronic data. Information technology equipment must  
16 be cleansed utilizing United States Department of Defense published  
17 guidelines. Following certified cleansing, the Chief Technology  
18 Officer may distribute the information technology equipment for  
19 reuse, or send the information technology equipment to a state  
20 authorized recycler. Transfer and disposal of information  
21 technology equipment are specifically exempt from the surplus  
22 property requirements enumerated in sections forty-three, forty-  
23 four, forty-five and forty-six of article three, chapter five-a of  
24 this code.

25 (c) The Chief Technology Officer may employ the personnel

1 necessary to carry out the work of the Office of Technology and may  
2 approve reimbursement of costs incurred by employees to obtain  
3 education and training.

4 (d) The Chief Technology Officer shall develop a  
5 comprehensive, statewide, four-year strategic information  
6 technology and technical infrastructure policy and development plan  
7 to be submitted to the Governor and the Joint Committee on  
8 Government and Finance. A preliminary plan shall be submitted by  
9 December 1, 2006, and the final plan shall be submitted by June 1,  
10 2007. The plan shall include, but not be limited to:

11 (A) A discussion of specific projects to implement the plan;

12 (B) A discussion of the acquisition, management and use of  
13 information technology by state agencies;

14 (C) A discussion of connectivity, priorities and  
15 interoperability of the state's technical infrastructure with the  
16 technical infrastructure of political subdivisions and encouraging  
17 the coordinated development of facilities and services regarding  
18 homeland security, law enforcement and emergency services to  
19 provide for the continuity of government operations in times of  
20 disaster or emergency;

21 (D) A discussion identifying potential market demand areas in  
22 which expanded resources and technical infrastructure may be  
23 expected;

24 (E) A discussion of technical infrastructure as it relates to  
25 higher education and health;

1 (F) A discussion of the use of public-private partnerships in  
2 the development of technical infrastructure and technology  
3 services; and

4 (G) A discussion of coordinated initiatives in website  
5 architecture and technical infrastructure to modernize and improve  
6 government to citizen services, government to business services,  
7 government to government relations and internal efficiency and  
8 effectiveness of services, including a discussion of common  
9 technical data standards and common portals to be utilized by  
10 state, county and local governmental units.

11 (e) The Chief Technology Officer shall oversee  
12 telecommunications services used by state spending units for the  
13 purpose of maximizing efficiency to the fullest possible extent.  
14 The Chief Technology Officer shall establish microwave or other  
15 networks and LATA hops; audit telecommunications services and  
16 usage; recommend and develop strategies for the discontinuance of  
17 obsolete or excessive utilization; participate in the renegotiation  
18 of telecommunications contracts; and encourage the use of  
19 technology and take other actions necessary to provide the greatest  
20 value to the state.

NOTE: The purpose of this bill is to clarify that the Office of Technology is responsible for the retirement or transfer of information technology equipment that may contain confidential and privileged electronic data.

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