

1 **H. B. 4421**

2  
3 (By Delegates White, Hall, Ferns, R. Phillips,  
4 D. Poling, Morgan, Stowers and Marcum)

5 [Requested by the Department of Administration]

6 [Introduced February 3, 2012; referred to the  
7 Committee on Government Organization then the Judiciary.]

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 or 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

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

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

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

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

1 information;

2 (B) Standards concerning the development of electronic  
3 transactions, including the use of electronic signatures;

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

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

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

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

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

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

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

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

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

19           (b) With respect to executive agencies, the Chief Technology  
20 Officer may:

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

23           (2) Establish, based on need and opportunity, priorities and  
24 time lines for addressing the information technology requirements

1 of the various executive agencies of state government;

2 (3) Exercise authority delegated by the Governor by executive  
3 order to overrule and supersede decisions made by the  
4 administrators of the various executive agencies of government with  
5 respect to the design and management of information systems and the  
6 purchase, lease or acquisition of information equipment and  
7 contracts for related services;

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

11 (5) Recommend to the Governor transfers of ~~equipment and~~ human  
12 resources from any executive agency and the most effective and  
13 efficient uses of the fiscal resources of executive agencies, to  
14 consolidate or centralize information-processing operations; and

15 (6) Ensure information technology equipment is properly  
16 cleansed before disposal or transfer to another agency or  
17 organization. The Office of Technology is responsible for the  
18 retirement or transfer of information technology equipment that may  
19 contain confidential or privileged electronic data. Information  
20 technology equipment shall be cleansed using appropriate and  
21 effective methods commensurate with the data, decommissioning  
22 agency and the planned disposition of the device. Following  
23 certified cleansing, the Chief Technology Officer may distribute  
24 the information technology equipment for reuse by another state

1 spending unit, send the information technology equipment to a state  
2 authorized recycler or send the information technology equipment to  
3 a certified information technology equipment refurbisher.  
4 Transfers and disposal of information technology equipment are  
5 specifically exempt from the surplus property requirements  
6 enumerated in sections forty three through forty-six, article three  
7 of this chapter.

8 (c) The Chief Technology Officer may employ the personnel  
9 necessary to carry out the work of the Office of Technology and may  
10 approve reimbursement of costs incurred by employees to obtain  
11 education and training.

12 (d) The Chief Technology Officer shall develop a  
13 comprehensive, statewide, four-year strategic information  
14 technology and technical infrastructure policy and development plan  
15 to be submitted to the Governor and the Joint Committee on  
16 Government and Finance. A preliminary plan shall be submitted by  
17 December 1, 2006, and the final plan shall be submitted by June 1,  
18 2007. The plan shall include, but not be limited to:

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

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

22 (C) A discussion of connectivity, priorities and  
23 interoperability of the state's technical infrastructure with the  
24 technical infrastructure of political subdivisions and encouraging

1 the coordinated development of facilities and services regarding  
2 homeland security, law enforcement and emergency services to  
3 provide for the continuity of government operations in times of  
4 disaster or emergency;

5 (D) A discussion identifying potential market demand areas in  
6 which expanded resources and technical infrastructure may be  
7 expected;

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

10 (F) A discussion of the use of public-private partnerships in  
11 the development of technical infrastructure and technology  
12 services; and

13 (G) A discussion of coordinated initiatives in website  
14 architecture and technical infrastructure to modernize and improve  
15 government to citizen services, government to business services,  
16 government to government relations and internal efficiency and  
17 effectiveness of services, including a discussion of common  
18 technical data standards and common portals to be utilized by  
19 state, county and local governmental units.

20 (e) The Chief Technology Officer shall oversee  
21 telecommunications services used by state spending units for the  
22 purpose of maximizing efficiency to the fullest possible extent.  
23 The Chief Technology Officer shall establish microwave or other  
24 networks and LATA hops; audit telecommunications services and

1 usage; recommend and develop strategies for the discontinuance of  
2 obsolete or excessive utilization; participate in the renegotiation  
3 of telecommunications contracts; and encourage the use of  
4 technology and take other actions necessary to provide the greatest  
5 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 or privileged electronic data.

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