

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 498

BY SENATORS BEACH, ROMANO, JEFFRIES, AND LINDSAY

[Introduced February 1, 2019; Referred
to the Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §29-6-4a, relating to requiring the Commissioner of the Division of Highways
 3 and the Director of the Division of Personnel to collaborate and develop a special hiring
 4 procedure for hourly personnel positions in the Division of Highways; establishing
 5 requirements for the special hiring procedure; exempting the Division of Highways and the
 6 Division of Personnel from classified service hiring procedures upon implementation of the
 7 special hiring process; providing exceptions; establishing reporting requirements; and
 8 requiring emergency and legislative rulemaking.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-4a. Special Appointment Procedures for Division of Highways Personnel.

1 (a) Legislative Intent. --

2 The purpose of this section is to allow the Division of Highways to appoint qualified
 3 applicants to vacant hourly personnel positions in the division in a timely manner, in order to
 4 ensure that the Division of Highways maintains an adequate workforce to maintain safe roadways
 5 for the citizens of West Virginia.

6 (b) Definitions.— As used in this section:

7 (1) “Commissioner” means the Commissioner of the Division of Highways or his or her
 8 designee;

9 (2) “Director” means the Director of the Division of Personnel or his or her designee; and

10 (3) “Division” means the Division of Highways.

11 (c) Development of Special Hiring Procedure; Requirements.--

12 (1) The commissioner and the director shall collaborate to develop a special merit-based
 13 application and appointment procedure for the employment of individuals to fill hourly personnel
 14 positions in the division.

15 (2) The special application and appointment procedure required by this section shall go

16 into effect on January 1, 2019, and shall meet the following requirements:

17 (A) The division is not required to post a position to be filled internally for more than one
18 week before selecting an applicant for a position; and for those positions to be filled with a
19 candidate from outside of the division, for not more than 14 calendar days.

20 (B) The division may begin the process to fill the position in a timely manner to allow a
21 new employee of the division to begin working for the division no later than four weeks after the
22 division's decision to offer a position to the new employee based upon its determination that the
23 applicant meets minimum qualifications and is otherwise eligible for the position.

24 (C) The director may not change the pay grades or pay grade equivalents, of any
25 employee classification utilized by the division without written approval of the commissioner;

26 (D) The division shall create and implement programs for its employees to advance within
27 the established pay ranges of their employment classifications, including, but not limited to,
28 approval authority and administration of the Transportation Worker Apprenticeship Program;

29 (E) The division shall have sole approval authority regarding employment transactions and
30 that the director shall review employment transactions to ensure that the transactions comply with
31 applicable state and federal law and regulation;

32 (F) The division is authorized to process multiple leaves of absence simultaneously, within
33 the confines of the Oasis system; and

34 (G) The division shall have flexibility to utilize any and all vacant position numbers when
35 posting to fill a vacancy and to post vacant positions utilizing multiple classifications when the
36 commissioner determines it to be necessary and in the best interest of the agency.

37 (H) A vacancy shall be created when an employee goes on terminal leave shall be posted
38 upon receipt of the notice that the employee has begun such leave.

39 (d) Exemption from Regular Application and Appointment Requirements.--

40 (1) Effective January 1, 2019, the division and the director shall follow the special
41 procedure developed pursuant to §29-6-4a(c) of this code when seeking applications and making

42 appointments to hourly personnel positions within the division.

43 (2) When seeking applications and making appointments pursuant to the special
44 procedure required by this section, neither the division nor the director is required to comply with
45 division of personnel procedures for seeking applications and making appointments to classified
46 service positions as provided in this article or in any other provision of this code, including those
47 procedures promulgated by legislative rules, subject however to the following exceptions:

48 (A) This section does not exempt the director or the division from the requirements of
49 sections §29-6-20 and §29-6-21 of this code, including the prohibition against favoritism,
50 discrimination or otherwise unethical practices related to appointment; and

51 (B) The provisions of this section may not be applied to hiring procedures applicable to
52 any division classified service position or employee in any manner that disqualifies the division
53 for eligibility for any federal highway funds or assistance.

54 (e) On or before October 1, 2019, the commissioner shall report to the Joint Committee
55 on Government and Finance regarding the division's progress toward compliance with the
56 requirements of this section.

57 (f) The commissioner and the director shall jointly propose emergency rules pursuant to
58 the provisions of §29A-3-15 of this code and shall also propose rules for legislative approval in
59 accordance with §29A-3-1 et seq. of this code as may be necessary to implement and comply
60 with the provisions of this section.

61 (g) The provisions of this section shall apply notwithstanding any other provision of this
62 article to the contrary.

NOTE: The purpose of this bill is to require the Commissioner of the West Virginia Division of Highways and the Director of the West Virginia Division of Personnel to collaborate to develop a special hiring process for Division of Highways positions; to exempt the West Virginia Division of Highways from regular State Personnel Board Procedures upon implementation of the special hiring process; to establish requirements for the special hiring process; and to establish reporting requirements.

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