

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 421**

BY SENATORS TARR, ROBERTS, AND WOODRUM

[Passed April 2, 2021; in effect 90 days from passage

(July 1, 2021)]



1 AN ACT to amend and reenact §21A-2-6 of the Code of West Virginia, 1931, as amended, relating  
2 to the general powers and duties of the Commissioner of Workforce West Virginia; and  
3 authorizing the agency to hire additional employees to serve at the will and pleasure of  
4 the commissioner.

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

**ARTICLE 2. THE COMMISSIONER OF WORKFORCE WEST VIRGINIA.**

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

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

3 (1) Exercise general supervision for the governance of Workforce West Virginia and  
4 propose rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code  
5 to implement the requirements of this chapter;

6 (2) Prescribe uniform rules pertaining to investigations and departmental hearings, and  
7 propose rules for promulgation;

8 (3) Supervise fiscal affairs and responsibilities of Workforce West Virginia;

9 (4) Prescribe the qualifications of, appoint, remove, and fix the compensation of, the  
10 officers and employees of Workforce West Virginia, subject to the provisions of §21A-4-10 of this  
11 code, relating to the Board of Review;

12 (5) Organize and administer Workforce West Virginia so as to comply with the  
13 requirements of this chapter and to satisfy any conditions established in applicable federal law or  
14 regulation;

15 (6) Make reports in the form and containing information required by the United States  
16 Department of Labor and comply with any requirements that the United States Department of  
17 Labor finds necessary to assure the correctness and verification of the reports;

18 (7) Make available to any agency of the United States charged with the administration of  
19 public works or assistance through public employment, upon its request, the name, address,

20 ordinary occupation, and employment status of each recipient of unemployment compensation  
21 and a statement of the recipient's rights to further compensation under this chapter;

22 (8) Keep an accurate and complete record of all Workforce West Virginia proceedings,  
23 record and file all bonds and contracts, and assume responsibility for the custody and  
24 preservation of all papers and documents of Workforce West Virginia;

25 (9) Sign and execute in the name of the state, by Workforce West Virginia, any contract  
26 or agreement with the federal government, its agencies, other states, their subdivisions, or private  
27 persons;

28 (10) Prescribe a salary scale to govern compensation of appointees and employees of  
29 Workforce West Virginia;

30 (11) Exempt up to 100 positions of the offices of WorkForce West Virginia from the  
31 classified service of the state, the employees of which positions shall serve at the will and pleasure  
32 of the commissioner: *Provided*, That such exempt positions shall be in addition to those positions  
33 in classified and classified-exempt service under the classification plan adopted by the Division  
34 of Personnel. The Commissioner of WorkForce West Virginia shall report all exemptions made  
35 under this section to the Director of the Division of Personnel as the commissioner determines  
36 necessary;

37 (12) Make the original determination of right in claims for benefits;

38 (13) Make recommendations and an annual report to the Governor concerning the  
39 condition, operation, and functioning of Workforce West Virginia;

40 (14) Invoke any legal or special remedy for the enforcement of orders or the provisions of  
41 this chapter;

42 (15) Exercise any other power necessary to standardize administration, expedite  
43 Workforce West Virginia business, assure the establishment of fair rules, and promote the  
44 efficiency of the service;

45           (16) Keep an accurate and complete record and prepare a monthly report of the number  
46 of persons employed and unemployed in the state. The report shall be made available upon  
47 request to members of the public and press;

48           (17) Provide, at Workforce West Virginia expense, a program of continuing professional,  
49 technical, and specialized instruction for the personnel of Workforce West Virginia;

50           (18) (A) Propose rules for legislative approval in accordance with the provisions of §29A-  
51 3-1 *et seq.* of this code, under which agencies of this state shall revoke or not grant, issue, or  
52 renew any contract, license, permit, certificate, or other authority to conduct a trade, profession,  
53 or business to or with any employing unit whose account is in default with the commissioner with  
54 regard to the administration of this chapter. The term “agency” includes any unit of state  
55 government such as officers, agencies, divisions, departments, boards, commissions, authorities,  
56 or public corporations. An employing unit is not in default if it has entered into a repayment  
57 agreement with the Unemployment Compensation Division of Workforce West Virginia and  
58 remains in compliance with its obligations under the repayment agreement;

59           (B) The rules shall provide that, before revoking, granting, issuing, or renewing any  
60 contract, license, permit, certificate, or other authority to conduct a trade, profession, or business  
61 to or with any employing unit, the designated agencies shall review a list or lists provided by  
62 Workforce West Virginia that are in default. If the employing unit’s name is not on the list, the  
63 agency, unless it has actual knowledge that the employing unit is in default with Workforce West  
64 Virginia, may grant, issue, or renew the contract, license, permit, certificate, or other authority to  
65 conduct a trade, profession, or business. The list may be provided to the agency in the form of a  
66 computerized database or databases that the agency can access. Any objections to the  
67 revocation or refusal to issue or renew shall be reviewed under the appropriate provisions of this  
68 chapter;

69           (C) The rules may be promulgated or implemented in phases so that specific agencies or  
70 specific types of contracts, licenses, permits, certificates, or other authority to conduct trades,

71 professions, or businesses will be subject to the rules beginning on different dates. The  
72 presumptions of ownership or control contained in the Department of Environmental Protection's  
73 surface mining reclamation regulations promulgated under the provisions of §22-3-1 *et seq.* of  
74 this code are not applicable or controlling in determining the identity of employing units who are  
75 in default for the purposes of this subdivision. The rules shall also provide a procedure allowing  
76 any agency or interested person, after being covered under the rules for at least one year, to  
77 petition Workforce West Virginia to be exempt from the provisions of the rules;

78 (19) Deposit to the credit of the appropriate special revenue account or fund,  
79 notwithstanding any other provision of this code and to the extent allowed by federal law, all  
80 amounts of delinquent payments or overpayments, interest, and penalties thereon and attorney's  
81 fees and costs collected under the provisions of this chapter. The amounts collected shall not be  
82 treated by the Auditor or Treasurer as part of the general revenue of the state; and

83 (20) Enter into interagency agreements to assist in exchanging information and fulfilling  
84 the provisions of this article.

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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days 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 of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2021.

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*Governor*