

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 421

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[Originating in the Committee on Government

Organization; reported on March 3, 2021]

1 A BILL 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 ~~THE BUREAU OF EMPLOYMENT~~
PROGRAMS WORKFORCE WEST VIRGINIA.**

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

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

3 (1) Exercise general supervision for the governance of ~~the bureau~~ Workforce West Virginia
4 and propose rules for promulgation in accordance with the provisions of ~~article three, chapter~~
5 ~~twenty nine a of this code~~ §29A-3-1 et seq. of this code to implement the requirements of this
6 chapter;

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

9 (3) Supervise fiscal affairs and responsibilities of ~~the bureau~~ Workforce West Virginia;

10 (4) Prescribe the qualifications of, appoint, remove, and fix the compensation of, the
11 officers and employees of ~~the bureau~~ Workforce West Virginia, subject to the provisions of ~~section~~
12 ~~ten, article four of this chapter~~ §21A-4-10 of this code, relating to the Board of Review;

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

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

19 (7) Make available to any agency of the United States charged with the administration of
20 public works or assistance through public employment, upon its request, the name, address,
21 ordinary occupation, and employment status of each recipient of unemployment compensation
22 and a statement of the recipient's rights to further compensation under this chapter;

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

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

29 (10) Prescribe a salary scale to govern compensation of appointees and employees of ~~the~~
30 ~~bureau~~ Workforce West Virginia;

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

38 ~~(14)~~ (12) Make the original determination of right in claims for benefits;

39 ~~(12)~~ (13) Make recommendations and an annual report to the Governor concerning the
40 condition, operation, and functioning of ~~the bureau~~ Workforce West Virginia;

41 ~~(13)~~ (14) Invoke any legal or special remedy for the enforcement of orders or the provisions
42 of this chapter;

43 ~~(14)~~ (15) Exercise any other power necessary to standardize administration, expedite
44 ~~bureau~~ Workforce West Virginia business, assure the establishment of fair rules, and promote the
45 efficiency of the service;

46 ~~(15)~~ (16) Keep an accurate and complete record and prepare a monthly report of the
47 number of persons employed and unemployed in the state. The report shall be made available
48 upon request to members of the public and press;

49 ~~(16)~~ (17) Provide, at ~~bureau~~ Workforce West Virginia expense, a program of continuing
50 professional, technical, and specialized instruction for the personnel of ~~the bureau~~ Workforce
51 West Virginia;

52 ~~(17)~~ (18) (A) Propose rules for legislative approval in accordance with the provisions of
53 ~~article three, chapter twenty-nine-a of this code~~ §29A-3-1 et seq. of this code, under which
54 agencies of this state shall revoke or not grant, issue, or renew any contract, license, permit,
55 certificate, or other authority to conduct a trade, profession, or business to or with any employing
56 unit whose account is in default with the commissioner with regard to the administration of this
57 chapter. The term “agency” includes any unit of state government such as officers, agencies,
58 divisions, departments, boards, commissions, authorities, or public corporations. An employing
59 unit is not in default if it has entered into a repayment agreement with the Unemployment
60 Compensation Division of ~~the bureau~~ Workforce West Virginia and remains in compliance with its
61 obligations under the repayment agreement;

62 (B) The rules shall provide that, before revoking, granting, issuing, or renewing any
63 contract, license, permit, certificate, or other authority to conduct a trade, profession, or business
64 to or with any employing unit, the designated agencies shall review a list or lists provided by ~~the~~
65 ~~bureau of employers~~ Workforce West Virginia that are in default. If the employing unit’s name is
66 not on the list, the agency, unless it has actual knowledge that the employing unit is in default with

67 ~~the bureau~~ Workforce West Virginia, may grant, issue, or renew the contract, license, permit,
68 certificate, or other authority to conduct a trade, profession, or business. The list may be provided
69 to the agency in the form of a computerized database or databases that the agency can access.
70 Any objections to the revocation or refusal to issue or renew shall be reviewed under the
71 appropriate provisions of this chapter;

72 (C) The rules may be promulgated or implemented in phases so that specific agencies or
73 specific types of contracts, licenses, permits, certificates, or other authority to conduct trades,
74 professions, or businesses will be subject to the rules beginning on different dates. The
75 presumptions of ownership or control contained in the Department of Environmental Protection's
76 surface mining reclamation regulations promulgated under the provisions of ~~article three, chapter~~
77 ~~twenty-two of this code~~ §22-3-1 et seq. of this code are not applicable or controlling in determining
78 the identity of employing units who are in default for the purposes of this subdivision. The rules
79 shall also provide a procedure allowing any agency or interested person, after being covered
80 under the rules for at least one year, to petition ~~the Bureau of Employment Programs~~ Workforce
81 West Virginia to be exempt from the provisions of the rules;

82 ~~(18)~~ (19) Deposit to the credit of the appropriate special revenue account or fund,
83 notwithstanding any other provision of this code and to the extent allowed by federal law, all
84 amounts of delinquent payments or overpayments, interest, and penalties thereon and attorney's
85 fees and costs collected under the provisions of this chapter. The amounts collected shall not be
86 treated by the Auditor or Treasurer as part of the general revenue of the state; and

87 ~~(19)~~ (20) Enter into interagency agreements to assist in exchanging information and
88 fulfilling the provisions of this article.