

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 5432

BY DELEGATE LINVILLE

(BY REQUEST OF THE WEST VIRGINIA OFFICE OF
TECHNOLOGY)

[Passed March 6, 2024; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §5A-6-1, §5A-6-3, and §5A-6-4 of the Code of West Virginia, 1931,
2 as amended; and to repeal §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4a, §5A-7-5, §5A-
3 7-6, §5A-7-7, §5A-7-8, §5A-7-9, §5A-7-10, and §5A-7-11 of said code, all relating to
4 combining Information Services and Communications Division with the West Virginia
5 Office of Technology; transferring funds from the Information Systems and
6 Communications Division to the Office of Technology; renaming special revenue fund and
7 providing purposes for expenditures; closing funds and transferring unexpended
8 balances; authorizing the Chief Information Officer to conduct requisition reviews;
9 authorizing the Chief Information Officer to collect a fee for services provided to other
10 public bodies; providing guidance and services to support data retention and electronic
11 discovery of executive agency data in compliance with agency data retention policies and
12 directives; and requiring the Chief Information Officer to provide mail service for state
13 spending units.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. OFFICE OF TECHNOLOGY

§5A-6-1. Findings and purposes.

1 The Office of Technology is hereby continued as an integral part of the Department of
2 Administration, for the purpose of establishing and developing information technology services
3 for state agencies and promulgating information technology standards. The Office of Technology
4 is authorized to advise and make recommendations to all state spending units on state information
5 systems and to have the authority to oversee coordination of the state's technical infrastructure.
6 Beginning July 1, 2024, the Information Services and Communications Division created under the
7 Department of Administration is hereby dissolved and its functions assumed by the West Virginia
8 Office of Technology.

§5A-6-3. Office of Technology; Chief Information Officer; appointment and qualifications; continuation of special funds.

1 (a) The Office of Technology is continued within the Department of Administration, to be
2 led by a Chief Information Officer, who shall be appointed by and serve at the will and pleasure
3 of the Governor. The Chief Information Officer shall have knowledge in the field of information
4 technology, experience in the design and management of information systems, and an
5 understanding of the special demands upon government with respect to budgetary constraints,
6 the protection of privacy interests, and federal and state standards of accountability.

7 (b) On July 1, 2024, the administration of the Information Services and Communication
8 Fund created under the former §5A-7-10 of this code is hereby transferred to, and thereafter shall
9 be administered by, the Chief Information Officer of the Office of Technology, and is hereby
10 renamed the Office of Technology Fund. The fund shall be a special revolving fund, consisting of
11 funds received for services provided pursuant to this article and §5A-6B-1 *et seq.* and §5A-6C-1
12 *et seq.* of this code, and all gifts, grants, bequests or transfers from any source. Expenditures
13 from the fund are authorized from collections for the purposes set forth in this article but are to be
14 made only in accordance with appropriation by the Legislature and with the provisions of §12-3-
15 1, *et seq.* of this code and upon the fulfillment of the provisions set forth in §11B-2-1, *et seq.* of
16 this code. Any balance, including accrued interest and other returns, remaining in the fund at the
17 end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund
18 and be expended as provided by this section.

19 (c) On July 1, 2024, the Chief Technology Officer Administration Fund created by prior
20 enactment of this section shall be closed, and any unexpended balances remaining in the fund
21 shall be transferred to the Office of Technology Fund.

22 (d) On July 1, 2024, the Telecommunications Services Payment and Reserve Fund
23 created in the former §5A-7-4a of this code shall be closed, and any unexpended balances
24 remaining in the fund shall be transferred to the Office of Technology Fund.

§5A-6-4. Powers and duties of the Chief Information Officer generally.

1 (a) With respect to all state spending units the Chief Information Officer may:

2 (1) Establish information technology governance to align technology management with
3 departmental and agency business goals, including, but not limited to:

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

8 (B) Standards relating to the exchange, acquisition, storage, use, sharing, and distribution
9 of data; and

10 (C) Standards for the connectivity, interoperability, and continuity of technology for
11 government operations in times of disaster or emergency;

12 (2) Evaluate all information technology requisitions for compatibility with established
13 information technology governance, including evaluation of the economic justification, system
14 design, and suitability;

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

18 (4) Broker contracts for or deliver directly information technology and technology services
19 in support of state spending units: *Provided*, That other public bodies may utilize information
20 technology and technology services offered by the Chief Information Officer with approval;

21 (5) Create new technologies to be used in government, convene conferences, and
22 develop incentive packages to encourage the utilization of technology;

23 (6) Charge a fee to the state spending units and other public bodies for services provided
24 under the provisions of this article §5A-6B-1 *et seq.* and §5A-6C-1 *et seq.* of this code;

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

27 (8) Develop job descriptions and qualifications necessary to perform duties related to
28 information technology as outlined in this article;

29 (9) Provide information technology related training to facilitate efficient use of state
30 technology resources;

31 (10) Submit resource and support requests to the federal government to support
32 technology or cyber security initiatives or programs;

33 (11) Engage in any other activities as directed by the Governor; and

34 (12) Promulgate legislative rules, in accordance with the provisions of §29A-3-1 *et seq.* as
35 may be necessary to standardize and make effective the administration of the provisions of this
36 article.

37 (b) With respect to executive agencies, the Chief Information Officer may:

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

40 (2) Establish, based on need and opportunity, priorities and timelines for addressing the
41 information technology requirements of executive agencies;

42 (3) Draw upon staff of other executive agencies for advice and assistance in the
43 formulation and implementation of administrative and operational plans and policies;

44 (4) Recommend to the Governor transfers of equipment and human resources from any
45 executive agency for the most effective and efficient uses of the fiscal resources of executive
46 agencies to modernize information technology investments;

47 (5) Provide guidance and services where feasible to support proper cleansing of electronic
48 data;

49 (6) Develop an information technology recycling program to redistribute or reuse properly
50 cleansed technology equipment. Transfers and disposal of information technology equipment are
51 specifically exempt from the surplus property requirements enumerated in §5A-3-43, §5A-3-44,
52 §5A-3-45, and §5A-3-46 of this code; and

53 (7)(A) Provide guidance and services to support data retention and electronic discovery
54 of executive agency data in compliance with agency data retention policies and directives:
55 *Provided*, That executive agencies communicate such requirements.

56 (B) In furtherance of this goal, the Chief Information Officer, in conjunction with the
57 appropriate authority of each executive agency, shall coordinate an effort to ensure that every
58 executive branch agency establishes a written digital document retention and destruction policy
59 to be posted on the agency's website accessible by the public and conducts an annual review of
60 the components of such policy.

61 (c) The Chief Information Officer may employ the personnel necessary to carry out the
62 work of the Office of Technology and may approve reimbursement of costs incurred by employees
63 to obtain education and training.

64 (d) The Chief Information Officer may oversee telecommunications services used by state
65 spending units for the purpose of maximizing efficiency to the fullest possible extent including
66 auditing telecommunications services and usage and negotiation of telecommunications
67 contracts.

68 (e) The Chief Information Officer shall provide central mail services during regular
69 business hours for state spending units. All state spending units having their offices in the capitol,
70 except the legislative branch of government, shall dispatch all mail through the central mailing
71 office: *Provided*, That mail prepared after gathering time and mail for special handling may be
72 posted without utilizing the central mailing office upon approval of the Chief Information Officer.
73 The Chief Information Officer is authorized to make such expenditures as necessary to process
74 and presort all outgoing mail or to enter contracts to supply the service.

75 (f) The Chief Information Officer may convene and chair an advisory committee made up
76 of a representative from each of the departments as identified in §5F-1-2 of this code, and any

77 other members deemed necessary by the Chief Information Officer to provide advice and
78 recommendations on technology issues for state agencies.

ARTICLE 7. INFORMATION SERVICES AND COMMUNICATIONS DIVISION.

§5A-7-1. Definitions.

1 [Repealed].

§5A-7-2. Division created; purpose; use of facilities; rules and regulations.

1 [Repealed].

§5A-7-3. Director; appointment and qualifications.

1 [Repealed].

§5A-7-4. Powers and duties of division generally; professional staff; telephone service.

1 [Repealed].

**§5A-7-4a. Payment of legitimate uncontested invoices for telecommunications services;
procedures and powers of the Information and Communications Division and
Secretary of Administration.**

1 [Repealed].

§5A-7-5. Control over central mailing office.

1 [Repealed].

§5A-7-6. Central mailing office employees.

1 [Repealed].

§5A-7-7. Central mailing office responsibilities.

1 [Repealed].

§5A-7-8. Use of the central mailing office.

1 [Repealed].

§5A-7-9. Preparation of mail for special rates.

1 [Repealed].

§5A-7-10. Special fund created; payments into fund; charges for services; disbursements from fund.

1 [Repealed].

§5A-7-11. Confidential records.

1 [Repealed].

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

.....
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2024.

.....
Governor