

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5432**

By Delegate Linville

(By Request of the West Virginia Office of  
Technology)

[Originating in the Committee on Finance; Reported  
on February 23, 2024]



1 A BILL 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 balances;  
8 authorizing the Chief Information Officer to conduct requisition reviews; authorizing the  
9 Chief Information Officer to collect a fee for services provided to other public bodies;  
10 Provide guidance and services to support data retention and electronic discovery of  
11 executive agency data in compliance with agency data retention policies and directives;  
12 and requiring the Chief Information Officer to provide mail service for state spending units.

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

## **ARTICLE 6. OFFICE OF TECHNOLOGY**

### **§5A-6-1. Findings and purposes.**

1 ~~The Legislature finds and declares that information technology is essential to finding~~  
2 ~~practical solutions to the everyday problems of government and that the management goals and~~  
3 ~~purposes of government are furthered by the development of compatible, linked information~~  
4 ~~systems across government. Therefore, it is the purpose of this article to create The Office of~~  
5 ~~Technology is hereby continued as an integral part of the Department of Administration, the Office~~  
6 ~~of Technology for the purpose of establishing and developing information technology services for~~  
7 ~~state agencies and promulgating information technology standards. with the authority The Office~~  
8 ~~of Technology is authorized to advise and make recommendations to all state spending units on~~  
9 ~~their state information systems and to have the authority to oversee coordination of the state's~~  
10 ~~technical infrastructure. Beginning July 1, 2024, the Information Services and Communications~~

10 Division created under the Department of Administration is hereby dissolved and its functions  
11 assumed by the West Virginia Office of Technology.

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

1 (a) The Office of Technology is ~~created~~ continued within the Department of Administration,  
2 to be led by a Chief Information Officer, who shall be appointed by and serve at the will and  
3 pleasure of the Governor. The Chief Information Officer shall have knowledge in the field of  
4 information 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) There is hereby continued in the State Treasury a special account to be known as the~~  
8 ~~Chief Technology Officer Administration Fund. All fees collected by the Chief Information Officer~~  
9 ~~pursuant to this article shall be deposited into the fund. Expenditures from the fund shall be made~~  
10 ~~by the Chief Information Officer for the purposes set forth in this article and are not authorized from~~  
11 ~~collections but are to be made only in accordance with appropriation by the Legislature and in~~  
12 ~~accordance with the provisions of §12-3-1 et seq. of this code and upon the fulfillment of the~~  
13 ~~provisions set forth in §11B-2-1 et seq. of this code: *Provided*, That the provisions of §11B-2-18 of~~  
14 ~~this code do not operate to permit expenditures in excess of the spending authority provided by the~~  
15 ~~Legislature~~

16 (b) On July 1, 2024, the administration of the Information Services and Communication  
17 Fund created under the former §5A-7-10 of this code is hereby transferred to, and thereafter shall  
18 be administered by, the Chief Information Officer of the Office of Technology, and is hereby  
19 renamed the Office of Technology Fund. The fund shall be a special revolving fund, consisting of  
20 funds received for services provided pursuant to this article and §5A-6B-1 et seq. and §5A-6C-1 et  
21 seq. of this code, and all gifts, grants, bequests or transfers from any source. Expenditures from  
22 the fund are authorized from collections for the purposes set forth in this article but are to be made

23 only in accordance with appropriation by the Legislature and with the provisions of §12-3-1, et seq.  
24 of this code and upon the fulfillment of the provisions set forth in §11B-2-1, et seq. of this code. Any  
25 balance, including accrued interest and other returns, remaining in the fund at the end of each  
26 fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be  
27 expended as provided by this section.

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

31 (d) On July 1, 2024, the Telecommunications Services Payment and Reserve Fund  
32 created in the former §5A-7-4a of this code shall be closed, and any unexpended balances  
33 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           ~~(2)~~ (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           ~~(3)~~ (5) Create new technologies to be used in government, convene conferences, and  
22 develop incentive packages to encourage the utilization of technology;

23           ~~(4)~~ (6) Charge a fee to the state spending units and other public bodies for services  
24 provided under the provisions of this article §5A-6B-1 et seq. and §5A-6C-1 et seq. of this code;

25           ~~(5)~~ (7) Periodically evaluate the feasibility of subcontracting information technology  
26 resources and services, and to subcontract only those resources that are feasible and beneficial to  
27 the state;

28           ~~(6)~~ (8) Develop job descriptions and qualifications necessary to perform duties related to  
29 information technology as outlined in this article;

30           ~~(7)~~ (9) Provide information technology related training to facilitate efficient use of state  
31 technology resources;

32           ~~(8)~~ (10) Submit resource and support requests to the federal government to support  
33 technology or cyber security initiatives or programs;

34           ~~(9)~~ (11) Engage in any other activities as directed by the Governor; and

35           ~~(10)~~ (12) Promulgate legislative rules, in accordance with the provisions of §29A-3-1 *et*  
36 *seq.* as may be necessary to standardize and make effective the administration of the provisions  
37 of this article.

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

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

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

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

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

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

50 (6) Develop an information technology recycling program to redistribute or reuse properly  
51 cleansed technology equipment. Transfers and disposal of information technology equipment are  
52 specifically exempt from the surplus property requirements enumerated in §5A-3-43, §5A-3-44,  
53 §5A-3-45, and §5A-3-46 of this code; and

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

57 (B) In furtherance of this goal, the Chief Information Officer, in conjunction with the  
58 appropriate authority in each executive agency, shall coordinate an effort to ensure that every  
59 executive branch agency:

60 (i) establishes a digital document retention and destruction policy;

61 (ii) proposes rules for promulgation establishing such policy; and

62 (iii) conducts an annual review of the components of such policy.

63 The first such annual review shall be completed no later than June 1, 2025, in order that  
64 rules may be timely promulgated.

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

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

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

79 (e) (f) The Chief Information Officer may convene and chair an advisory committee made  
80 up of a representative from each of the departments as identified in §5F-1-2 of this code, and any  
81 other members deemed necessary by the Chief Information Officer to provide advice and  
82 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].