

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3204**

4 (By Delegates Boggs, Caputo, Varner, Morgan and Fragale)

5
6 (Originating in the Committee on Finance)

7 [February 25, 2011]

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9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §12-6D-1, §12-6D-2,
12 §12-6D-3, §12-6D-4, §12-6D-5, §12-6D-6 and §12-6D-7, all
13 relating to the West Virginia Enterprise Resource Planning
14 System; creating the Enterprise Resource Planning Board;
15 providing for composition, purpose, powers and duties of the
16 board; creating a steering committee; providing for
17 composition, purpose, powers and duties of the steering
18 committee; providing for expense reimbursement for members of
19 the steering committee; requiring the board to provide system
20 access to designated employees of the legislature; providing
21 for criminal penalties and removal from office for violating
22 the requirement to provide access; creating the Enterprise
23 Resource Planning System Fund in the state treasury; and
24 transferring funds allocated to the system to the Enterprise
25 Resource Planning System Fund.

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

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new article, designated §12-6D-1, §12-6D-2,
3 §12-6D-3, §12-6D-4, §12-6D-5, §12-6D-6 and §12-6D-7, all to read as
4 follows:

5 **ARTICLE 6D. WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD.**

6 **§12-6D-1. West Virginia Enterprise Resource Planning Board created;**
7 **board composition and purpose; Enterprise Resource**
8 **planning defined.**

9 (a) As used in this article "enterprise resource planning"
10 means the implementation of software applications to achieve the
11 comprehensive integration of data sources and processes of state
12 agencies into a unified system that includes the state's financial
13 management, procurement, personnel, payroll, budget development and
14 other administrative business processes.

15 (b) There is created the West Virginia Enterprise Resource
16 Planning Board, whose purpose is to develop, implement and manage
17 the Enterprise Resource Planning System.

18 (c) The board consists of the Governor, Auditor and the
19 Treasurer, who serve by virtue of their offices and are not
20 entitled to compensation under the provisions of this article.

21 **§12-6D-2. Powers of the board.**

22 The board may:

23 (1) Adopt and use a common seal and alter it at pleasure;

24 (2) Sue and be sued;

- 1 (3) Enter into contracts and execute and deliver instruments;
- 2 (4) Acquire by purchase, gift or otherwise, hold, use and
3 dispose of real and personal property, deeds, mortgages and other
4 instruments;
- 5 (5) Accept and receive gifts, grants and other moneys from any
6 source;
- 7 (6) Promulgate and enforce by-laws and rules for the
8 management and conduct of its affairs;
- 9 (7) Propose legislative rules, including emergency rules, in
10 accordance with article three, chapter twenty-nine-a of this code
11 to establish a user fee for the maintenance of the Enterprise
12 Resource System;
- 13 (8) Contract with and retain legal, accounting, financial and
14 information technology managers, advisors and consultants;
- 15 (9) Delegate to the committee any and all duties of the board
16 deemed necessary and convenient to effectuate the intent of this
17 article;
- 18 (10) Review and ratify or overrule any decision of the
19 steering committee;
- 20 (11) Review written appeals submitted by the steering
21 committee chairman at the request of a committee member; and
- 22 (12) Do all things necessary or convenient to implement
23 and operate the board and carry out the purposes of this article.
- 24 **§12-6D-3. Management and control of Enterprise Resource Planning**

1 **System; designation of chair; meetings; executive**
2 **session.**

3 (a) The board shall manage and control the Enterprise Resource
4 Planning System in accordance with the provisions of this article.

5 (b) The Governor shall be the chairperson of the board unless
6 the board votes to elect another member as chairperson.

7 (c) Decisions of the board require unanimous consent of the
8 members.

9 (d) The board may use the staff, policies and procedures of
10 the State Auditor, employ personnel and contract with any person or
11 entity needed to perform the tasks related to the development,
12 management and operation of the Enterprise Resource Planning
13 System.

14 (e) The board shall hold meetings at least quarterly. Board
15 by-laws may provide for additional meetings.

16 (f) All three voting members must be present to constitute a
17 quorum of any meeting.

18 (g) Meetings of the board are subject to the provisions of
19 article nine-a, chapter six of this code.

20 (h) The board may convene in executive session, upon adoption
21 of a proper motion by a board member, when necessary to preserve
22 the attorney-client privilege, to protect the privacy interests of
23 individuals, to review personnel matters, to maintain
24 confidentiality when confidentiality is in the best interest of the
25 participants, or as otherwise provided by law.

1 **§12-6D-4. Steering Committee created; powers and authority.**

2 (a) There is created a sixteen member steering committee of
3 the board whose purpose is to provide routine oversight of the
4 implementation and management of the enterprise resource planning
5 system and perform duties delegated to them by the board.

6 (b) The steering committee shall annually elect a chairperson
7 to chair the committee.

8 (c) A steering committee member may appeal any action of the
9 committee to the board by submitting a written request for board
10 review to the steering committee chairperson within ten days of the
11 disputed committee action. The committee chairperson shall forward
12 the appeal to the board. The board shall review appeals at the
13 next regularly scheduled board meeting and shall ratify or overturn
14 the decision of the board in writing. No disputed action of the
15 committee may proceed, if appealed to the board, until ratified or
16 overturned by the board.

17 (d) The steering committee shall consist of sixteen members,
18 as follows:

19 (1) The Secretary of the Department of Administration, the
20 Secretary of Revenue, the Secretary of Transportation, and the
21 Secretary of Health and Human Resources. They shall serve by virtue
22 of their offices, are not entitled to compensation under the
23 provisions of this article, and are subject to all duties,
24 responsibilities and requirements of the provisions of this
25 article;

1 (2) Five persons appointed by the Governor, three of whom will
2 be representatives of institutions of Higher Education;

3 (3) Two persons appointed by the State Auditor;

4 (4) Two persons appointed by the State Treasurer;

5 (5) A member of the Senate appointed by the President of the
6 Senate, who shall be a non-voting member; and

7 (6) A member of the House of Delegates appointed by the
8 Speaker of the House, who shall be a non-voting member;

9 (7) A member of an association representing state information
10 technology employees.

11 (e) A member may appoint a designee to serve on his or her
12 behalf.

13 (f) A member may serve until his or her appointment is revoked
14 or until his or her successor is appointed and qualified.

15 (g) Members are entitled to reasonable and necessary expenses
16 actually incurred in discharging committee duties pursuant to this
17 article.

18 **§12-6D-5. Legislative access to data and systems; exceptions;**
19 **additional exceptions to be requested by the board;**
20 **criminal penalties and removal from office.**

21 (a) Notwithstanding any provision of this code to the
22 contrary, the board shall provide system-wide, read-only access to
23 employees of the Legislature designated by the President of the
24 Senate, the Speaker of the House or the Legislative Auditor to all
25 data, reports, modules and other functionality and capabilities of

1 the enterprise resource planning system that are available to any
2 user of the system.

3 (b) The Legislature may not have access to patient specific
4 data protected under the Health Insurance Portability and
5 Accountability Act, employee or retiree social security numbers,
6 purchasing card and credit card numbers, information from a
7 specific tax return or employee benefit allocations beyond object-
8 level totals.

9 (c) If the board determines that certain data, reports,
10 modules and other functionality and capabilities of the enterprise
11 resource planning system are inappropriate for read-only access to
12 designated legislative employees, it shall describe such
13 information and explain its reasoning in a letter to the President
14 of the Senate, the Speaker of the House and the Legislative Auditor
15 so that the Legislature may consider providing additional
16 exceptions under this section.

17 (d) Any official who knowingly fails, neglects or refuses to
18 provide system-wide, read-only access to employees of the
19 Legislature designated by the President of the Senate, the Speaker
20 of the House or the Legislative Auditor to all data, reports,
21 modules and other functionality and capabilities of the enterprise
22 resource planning system that are available to any user of the
23 system, as provided in this section, is guilty of malfeasance in
24 office and, upon conviction thereof, shall be fined not less than
25 \$1000 nor more than \$5000, or imprisoned not less than three nor
26 more than six months, or both, and upon conviction, shall be

1 removed from office.

2 **§12-6D-6. Enterprise Resource Planning Fund.**

3 There is hereby created a fund in the State Treasury entitled
4 the Enterprise Resource Planning System Fund to be administered by
5 the board. The fund shall consist of any appropriations or
6 transfers made for the purpose of studying, evaluating, creating,
7 developing, implementing and managing a new Enterprise Resource
8 Planning System and any fees collected in accordance with
9 legislative rules approved by the board and proposed pursuant to
10 this article. Expenditures from the fund are to be made for the
11 purposes set forth in this article in accordance with
12 appropriations by the Legislature and are not authorized from
13 collections.

14 **§12-6D-7. Transfer of Enterprise Resource Planning Funds.**

15 The unencumbered balances of all funds allocated to the
16 enterprise resource planning system for fiscal year ending June 30,
17 2011, and the fiscal year ending June 30, 2012, are hereby
18 transferred to the Enterprise Resource Planning System Fund on the
19 effective date of this section in the year 2011.