

COMMITTEE SUBSTITUTE

FOR

H. B. 3204

(BY DELEGATES BOGGS, CAPUTO, VARNER, MORGAN AND
FRAGALE)

(Originating in the Committee on Finance)
[February 25, 2011]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-6D-1, §12-6D-2, §12-6D-3, §12-6D-4, §12-6D-5, §12-6D-6 and §12-6D-7, all relating to the West Virginia Enterprise Resource Planning System; creating the Enterprise Resource Planning Board; providing for composition, purpose, powers and duties of the board; creating a steering committee; providing for composition, purpose, powers and duties of the steering

committee; providing for expense reimbursement for members of the steering committee; requiring the board to provide system access to designated employees of the legislature; providing for criminal penalties and removal from office for violating the requirement to provide access; creating the Enterprise Resource Planning System Fund in the state treasury; and transferring funds allocated to the system to the Enterprise Resource Planning System Fund.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6D. WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD.

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

- 1 (a) As used in this article “enterprise resource planning”
- 2 means the implementation of software applications to
- 3 achieve the comprehensive integration of data sources and

4 processes of state agencies into a unified system that includes
5 the state's financial management, procurement, personnel,
6 payroll, budget development and other administrative
7 business processes.

8 (b) There is created the West Virginia Enterprise
9 Resource Planning Board, whose purpose is to develop,
10 implement and manage the Enterprise Resource Planning
11 System.

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

§12-6D-2. Powers of the board.

1 The board may:

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

3 (2) Sue and be sued;

4 (3) Enter into contracts and execute and deliver
5 instruments;

6 (4) Acquire by purchase, gift or otherwise, hold, use and
7 dispose of real and personal property, deeds, mortgages and
8 other instruments;

9 (5) Accept and receive gifts, grants and other moneys
10 from any source;

11 (6) Promulgate and enforce by-laws and rules for the
12 management and conduct of its affairs;

13 (7) Propose legislative rules, including emergency rules,
14 in accordance with article three, chapter twenty-nine-a of this
15 code to establish a user fee for the maintenance of the
16 Enterprise Resource System;

17 (8) Contract with and retain legal, accounting, financial
18 and information technology managers, advisors and
19 consultants;

20 (9) Delegate to the committee any and all duties of the
21 board deemed necessary and convenient to effectuate the
22 intent of this article;

23 (10) Review and ratify or overrule any decision of the
24 steering committee;

25 (11) Review written appeals submitted by the steering
26 committee chairman at the request of a committee member;

27 and

28 (12) Do all things necessary or convenient to implement
29 and operate the board and carry out the purposes of this
30 article.

**§12-6D-3. Management and control of Enterprise Resource
Planning System; designation of chair; meetings;
executive session.**

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

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

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

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

14 (e) The board shall hold meetings at least quarterly.

15 Board by-laws may provide for additional meetings.

16 (f) All three voting members must be present to
17 constitute a 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
21 adoption of a proper motion by a board member, when
22 necessary to preserve the attorney-client privilege, to protect
23 the privacy interests of individuals, to review personnel
24 matters, to maintain confidentiality when confidentiality is in
25 the best interest of the participants, or as otherwise provided
26 by law.

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

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

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

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

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

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

25 subject to all duties, responsibilities and requirements of the
26 provisions of this article;

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

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

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

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

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

37 (7) A member of an association representing state
38 information technology employees.

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

41 (f) A member may serve until his or her appointment is
42 revoked or until his or her successor is appointed and
43 qualified.

44 (g) Members are entitled to reasonable and necessary
45 expenses actually incurred in discharging committee duties
46 pursuant to this article.

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

1 (a) Notwithstanding any provision of this code to the
2 contrary, the board shall provide system-wide, read-only
3 access to employees of the Legislature designated by the
4 President of the Senate, the Speaker of the House or the
5 Legislative Auditor to all data, reports, modules and other
6 functionality and capabilities of the enterprise resource
7 planning system that are available to any user of the system.

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

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

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

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

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

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

1 The unencumbered balances of all funds allocated to the
2 enterprise resource planning system for fiscal year ending
3 June 30, 2011, and the fiscal year ending June 30, 2012, are
4 hereby transferred to the Enterprise Resource Planning
5 System Fund on the effective date of this section in the year
6 2011.