

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 3131**

BY DELEGATES ELLINGTON, HILL, SUMMERS, ROHRBACH,

HOLLEN, PACK, ATKINSON, D. JEFFRIES, AND ROWAN

[Passed March 9, 2019; in effect ninety days from

passage.]



1 AN ACT to amend and reenact §5-5-4a of the Code of West Virginia, as amended, all relating to  
2 employees of the Department of Health and Human Resources; providing that the  
3 Department of Health and Human Resources shall develop a special merit-based system  
4 for specified employees at state-operated acute care, long-term care, psychiatric care,  
5 clinical, and medical facilities; providing for an effective date; providing that provisions of  
6 the West Virginia Public Employees Grievance Act apply to employees of the special  
7 merit-based system; providing that the Department of Health and Human Resources may  
8 conduct a marketplace analysis; and providing for emergency rulemaking.

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

**ARTICLE 5. SALARY INCREASE FOR STATE EMPLOYEES.**

1 **§5-5-4a. Department of Health and Human Resources facility employee classifications.**

2 (a) The Legislature finds that state-operated acute care, long-term care, psychiatric care,  
3 clinical, and medical facilities have extreme difficulty in recruiting and retaining physicians,  
4 physician specialists, nurses, nursing directors, health service workers, health service assistants,  
5 and other employees who assist in the direct provision of medical care to patients in those  
6 facilities.

7 (b) The Department of Health and Human Resources shall develop a special merit-based  
8 system, including an application and appointment procedure for physicians, physician specialists,  
9 nurses, nursing directors, health service workers, health service assistants, and other employees  
10 who assist in the direct provision of medical care to patients at state-operated acute care, long-  
11 term care, psychiatric care, clinical, and medical facilities. The procedure shall include  
12 classification specifications, and may include compensation adjustments, retention incentives,  
13 and hiring approval by the secretary. The secretary shall have the full authority to evaluate  
14 applicants for employment or promotion or make classification determinations for positions within  
15 the special merit-based system. The special merit-based system shall be approved by the State

16 Personnel Board. The pay rates and employment requirements shall be put into effect no sooner  
17 than January 1, 2020, and no later than July 1, 2020.

18 (c) Funding for the pay rates and employment requirements shall be provided from the  
19 appropriation to the Department of Health and Human Resources. The provisions of this section  
20 are rehabilitative in nature and it is the specific intent of the Legislature that no private cause of  
21 action, either express or implied, shall arise pursuant to the provisions or implementation of this  
22 section.

23 (d) The provisions of §6C-2-1 *et seq.* of this code shall be applicable to the employees of  
24 the special merit-based system: *Provided*, That the Division of Personnel shall not be a mandatory  
25 party to any public employee grievance filed by any employee in the special merit-based system.

26 (e) The department may conduct periodic wage and compensation analysis of identified  
27 market rates for the above positions as determined necessary by the secretary.

28 (f) The secretary may promulgate emergency rules and shall propose legislative rules  
29 pursuant to the provisions of §29A-3-1 *et seq.* of this code as may be necessary to implement  
30 and comply with the provisions of this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2019.

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*Governor*