

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 2699**

BY DELEGATE CAPITO

[Introduced February 23, 2021; Referred to the  
Committee on Government Organization then  
Finance]

1 A BILL to amend §21A-2-6 of the Code of West Virginia, 1931, as amended, relating to the general  
 2 powers and duties of the Commissioner of Workforce West Virginia, and authorizing the  
 3 agency to hire additional employees to serve at the will and pleasure of the Commissioner.

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

**ARTICLE 2. THE COMMISSIONER OF ~~THE BUREAU OF EMPLOYMENT~~  
PROGRAMS WORKFORCE WEST VIRGINIA.**

**§ 21A-2-6 Powers and duties generally**

1 The commissioner is the executive and administrative head of ~~the bureau~~ Workforce West  
 2 Virginia and has the power and duty to:

3 (1) Exercise general supervision for the governance of ~~the bureau~~ Workforce West Virginia  
 4 and propose rules for promulgation in accordance with the provisions of ~~article three, chapter~~  
 5 ~~twenty-nine-a of this code~~ §29A-3-1 et seq. of this code to implement the requirements of this  
 6 chapter;

7 (2) Prescribe uniform rules pertaining to investigations, departmental hearings and  
 8 propose rules for promulgation;

9 (3) Supervise fiscal affairs and responsibilities of ~~the bureau~~ Workforce West Virginia;

10 (4) Prescribe the qualifications of, appoint, remove and fix the compensation of the officers  
 11 and employees of ~~the bureau~~ Workforce West Virginia, subject to the provisions of ~~section ten,~~  
 12 ~~article four of this chapter~~ §21A-4-10 of this code, relating to the board of review;

13 (5) Organize and administer ~~the bureau~~ Workforce West Virginia so as to comply with the  
 14 requirements of this chapter and to satisfy any conditions established in applicable federal law or  
 15 regulation;

16 (6) Make reports in the form and containing information required by the United States  
 17 Department of Labor and comply with any requirements that the United States Department of  
 18 Labor finds necessary to assure the correctness and verification of the reports;

19 (7) Make available to any agency of the United States charged with the administration of  
20 public works or assistance through public employment, upon its request, the name, address,  
21 ordinary occupation and employment status of each recipient of unemployment compensation  
22 and a statement of the recipient's rights to further compensation under this chapter;

23 (8) Keep an accurate and complete record of all bureau proceedings, record and file all  
24 bonds and contracts and assume responsibility for the custody and preservation of all papers and  
25 documents of ~~the bureau~~ Workforce West Virginia;

26 (9) Sign and execute in the name of the state, by ~~the "Bureau of Employment Programs"~~  
27 "Workforce West Virginia," any contract or agreement with the federal government, its agencies,  
28 other states, their subdivisions or private persons;

29 (10) Prescribe a salary scale to govern compensation of appointees and employees of ~~the~~  
30 ~~bureau~~ Workforce West Virginia;

31 (11) Exempt up to 100 positions of the offices of WorkForce West Virginia from the  
32 classified service of the state, the employees of which positions shall serve at the will and pleasure  
33 of the commissioner: *Provided*, That such exempt positions shall be in addition to those positions  
34 in classified-exempt service under the classification plan adopted by the Division of Personnel.  
35 The WorkForce West Virginia Commissioner shall report all exemptions made under this section  
36 to the Director of the Division of Personnel as the commissioner determines to be necessary;

37 ~~(14)~~ (12) Make the original determination of right in claims for benefits;

38 ~~(15)~~ (13) Make recommendations and an annual report to the Governor concerning the  
39 condition, operation and functioning of ~~the bureau~~ Workforce West Virginia;

40 ~~(16)~~ (14) Invoke any legal or special remedy for the enforcement of orders or the provisions  
41 of this chapter;

42 ~~(17)~~ (15) Exercise any other power necessary to standardize administration, expedite  
43 ~~bureau~~ Workforce West Virginia business, assure the establishment of fair rules and promote the  
44 efficiency of the service;

45           ~~(15)~~ (16) Keep an accurate and complete record and prepare a monthly report of the  
46 number of persons employed and unemployed in the state. The report shall be made available  
47 upon request to members of the public and press;

48           ~~(16)~~ (17) Provide at ~~bureau~~ Workforce West Virginia expense a program of continuing  
49 professional, technical and specialized instruction for the personnel of ~~the bureau~~ Workforce West  
50 Virginia;

51           ~~(17)~~ (18) (A) Propose rules for legislative approval in accordance with the provisions of  
52 ~~article three, chapter twenty-nine-a of this code~~ §29A-3-1 et seq., under which agencies of this  
53 state shall revoke or not grant, issue or renew any contract, license, permit, certificate or other  
54 authority to conduct a trade, profession or business to or with any employing unit whose account  
55 is in default with the commissioner with regard to the administration of this chapter. The term  
56 “agency” includes any unit of state government such as officers, agencies, divisions, departments,  
57 boards, commissions, authorities or public corporations. An employing unit is not in default if it  
58 has entered into a repayment agreement with the Unemployment Compensation Division of ~~the~~  
59 ~~bureau~~ Workforce West Virginia and remains in compliance with its obligations under the  
60 repayment agreement.

61           (B) The rules shall provide that, before revoking, granting, issuing or renewing any  
62 contract, license, permit, certificate or other authority to conduct a trade, profession or business  
63 to or with any employing unit, the designated agencies shall review a list or lists provided by ~~the~~  
64 ~~bureau of employers~~ Workforce West Virginia that are in default. If the employing unit's name is  
65 not on the list, the agency, unless it has actual knowledge that the employing unit is in default with  
66 ~~the bureau~~ Workforce West Virginia, may grant, issue or renew the contract, license, permit,  
67 certificate or other authority to conduct a trade, profession or business. The list may be provided  
68 to the agency in the form of a computerized database or databases that the agency can access.  
69 Any objections to the revocation or refusal to issue or renew shall be reviewed under the  
70 appropriate provisions of this chapter.

71 (C) The rules may be promulgated or implemented in phases so that specific agencies or  
72 specific types of contracts, licenses, permits, certificates or other authority to conduct trades,  
73 professions or businesses will be subject to the rules beginning on different dates. The  
74 presumptions of ownership or control contained in the Department of Environmental Protection's  
75 surface mining reclamation regulations promulgated under the provisions of ~~article three, chapter~~  
76 ~~twenty-two of this code §22-3-1 et seq.~~ are not applicable or controlling in determining the identity  
77 of employing units who are in default for the purposes of this subdivision. The rules shall also  
78 provide a procedure allowing any agency or interested person, after being covered under the  
79 rules for at least one year, to petition ~~the Bureau of Employment Programs~~ Workforce West  
80 Virginia to be exempt from the provisions of the rules;

81 ~~(18)~~ (19) Deposit to the credit of the appropriate special revenue account or fund,  
82 notwithstanding any other provision of this code and to the extent allowed by federal law, all  
83 amounts of delinquent payments or overpayments, interest and penalties thereon and attorneys'  
84 fees and costs collected under the provisions of this chapter. The amounts collected shall not be  
85 treated by the Auditor or Treasurer as part of the general revenue of the state; and

86 ~~(19)~~ (20) Enter into interagency agreements to assist in exchanging information and  
87 fulfilling the provisions of this article.

NOTE: The purpose of this bill is to authorize Workforce West Virginia to hire additional employees to serve at the Commissioner's will and pleasure.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.