WEST VIRGINIA LEGISLATURE

**FISCAL NOTE**

2022 REGULAR SESSION

Introduced

House Bill 4500

By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]

[Introduced February 02, 2022; Referred to the Committee on Government Organization]

A BILL to amend and reenact §5A-1-11 of the Code of West Virginia, 1931, as amended, relating to combining the offices of the West Virginia State Americans with Disabilities Act Office and the West Virginia Equal Employment Opportunity Office within the Department of Administration; creating a position titled State Equal Opportunity Coordinator; establishing qualifications for the position; setting forth how the State Equal Opportunity Coordinator is selected; outlining scope of responsibilities; authorizing access to personnel records to monitor compliance and advise state agencies; renaming the fund titled “Americans with Disabilities Coordinator Fund”; and making other technical changes.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-11. ~~State Americans with disabilities coordinator~~ State of West Virginia Office of Equal Opportunity.

(a) There is ~~continued~~ created within the Department of Administration the ~~position of the~~ ~~State Americans with Disabilities Coordinator~~ State of West Virginia Office of Equal Opportunity, to be directed by the State Equal Opportunity Coordinator, who shall be appointed by the Secretary of the Department of Administration with input from the chairperson from each of the following: ~~four councils~~

(1) The West Virginia Human Rights Commission;

(2) The Herbert Henderson Office of Minority Affairs;

~~(1)~~ (3) The Developmental Disabilities Council;

~~(2)~~ (4) The Statewide Independent Living Council;

~~(3)~~ (5) The Mental Health Planning Council; and

~~(4)~~ (6) The State Rehabilitation Council.

(b) The coordinator shall be a full-time employee and shall have an in-depth working knowledge the federal Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1977, Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008. The coordinator shall also have an in-depth working knowledge of the challenges ~~faced by persons~~ facing West Virginia minorities and those living with disabilities, and shall continually seek to update his or her understanding of such challenges through further education and information gathering. The coordinator may be a current employee of the Department of Administration or other state agency employee.

(c) The coordinator shall:

(1) Advise the Director of Personnel in the development of comprehensive policies and programs for the development, implementation and monitoring of a statewide program to assure compliance with 42 U.S.C. §12101, *et seq.,* the federal Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1977, Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008;

(2) Assist in the formulation of rules and standards relating to the review, investigation and resolution of complaints of discrimination in employment, education, housing and public accommodation;

(3) Consult and collaborate with state and federal agency officials in the state plan development;

(4) Consult and collaborate with ~~agency Americans with disabilities officers~~ state agencies and the employees who handle matters that implicate the federal Equal Employment Opportunity Act and Americans with Disabilities Act on the appropriate training for managers and supervisors on regulations and issues;

(5) Represent the state on local, state, and national committees and panels related to Americans with ~~disabilities~~ Disabilities Act and the Equal Employment Opportunity Act;

(6) Advise the Governor and agency heads on federal Americans with ~~disabilities issues~~ Disabilities Act and Equal Employment Opportunity Act issues;

(7) ~~Consult with state equal employment opportunity officers on the hiring of persons with disabilities~~ The State Equal Opportunity Officer shall have access to and monitor records of personnel actions such as applicant flow, referrals, hiring rate, placements, transfers, promotions, terminations and other pertinent statistical data to insure appropriate compliance with federal Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1977, Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008; and

(8) Be available to inspect and advise the leasing section of the Division of Purchasing on all physical properties owned or leased by the State of West Virginia for compliance with 42 U.S.C. §12101, *et seq.,* the federal Americans with Disabilities Act.

(d) (1) The Secretary of the Department of Administration may assess, charge and collect fees from each state spending unit which utilizes the services of the coordinator, for the direct costs and expenses incurred by the coordinator in providing those services. Costs and expenses include travel, materials, equipment and supplies. Moneys shall be collected through the Division of Finance.

(2) A state spending unit shall agree in writing to all costs and expenses before the services by the ~~Americans with Disabilities coordinator~~ Equal Opportunity Coordinator are rendered.

(e) There is continued in the Department of Administration a special fund ~~to be~~ formerly named the “Americans with Disabilities Coordinator Fund”, to be named henceforth the “Equal Opportunity Coordinator Fund, which shall be an interest-bearing account and may be invested in accordance with the provisions of §12-6- 1 *et seq*. of this code, with the interest income a proper credit to the fund. Funds paid into the account may be derived from the following sources:

(1) All moneys received from state spending units for the costs and expenses incurred by the ~~state Americans with Disabilities Coordinator~~ State Equal Opportunity Coordinator for providing services related to the states implementation and compliance with ~~42 U.S.C. §12101,~~ *~~et seq.~~* the federal Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1977, Sections 102 and 103 of the Civil Rights Act of 1991, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008;

(2) Any gifts, grants, bequests, transfers or donations which may be received from any governmental entity or unit or any person, firm, foundation or corporation; and

(3) All interest or return on investment accruing to the fund.

(f) Moneys in the fund are to be used for the costs and expenses incurred pursuant to this section. Any balance including accrued interest in this special fund at the end of any fiscal year shall not revert to the General Revenue Fund, but shall remain in the fund for use by the Secretary of the Department of Administration for providing additional ~~Americans with Disabilities~~ Equal Opportunity Coordinator services within the State of West Virginia in the ensuing fiscal years.

(g) The Secretary of the Department of Administration shall report annually on the fund to the Governor, President of the Senate and Speaker of the House of Delegates. The report must be on CD ROM or other electronic media and shall not be in print format.

NOTE: The purpose of this bill is to combine the offices of the State of West Virginia Equal Employment Opportunity Office and the Americans with Disabilities Act Office to more efficiently serve the citizens of the State of West Virginia.

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