

September 2022
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PERFORMANCE REVIEW

DIVISION OF PERSONNEL

AUDIT OVERVIEW

Each Year Several Million Dollars Are Appropriated for Budgeted Vacant Positions, Many of Which Have Been Vacant for Several Years with No Evidence that Agencies Are Trying to Fill Them

The Current Civil Service System Exhibits Progress, But Further Improvements Can Be Made to Reduce Redundancies and Fully Utilize the Capabilities of the NEOGOV Application Software

There are Currently Over 300 Full-Time West Virginia State Employees Who May Qualify for Assistance Programs Based on Income



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May 22, 2022

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The Honorable Brandon Steele
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Dear Chairs:

We are transmitting a Performance Review of the Division of Personnel. The issues covered herein are *"Each Year Several Million Dollars Are Appropriated for Budgeted Vacant Positions, Many of Which Have Been Vacant for Several Years with No Evidence that Agencies Are Trying to Fill Them," "The Current Civil Service System Exhibits Progress, But Further Improvements Can Be Made to Reduce Redundancies and Fully Utilize the Capabilities of the NEOGOV Application Software,"* and *"There Are Currently Over 300 Full-Time West Virginia State Employees Who May Qualify for Assistance Programs Based on Income."*

We transmitted a draft copy of the report to the Division of Personnel on April 22, 2022. We received the agency response on April 29, 2022.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Joint Committee on Government and Finance

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD), within the Office of the Legislative Auditor, conducted an Agency Review of the Department of Administration pursuant to West Virginia Code §4-10-8. As part of this process, a Performance Review of the Division of Personnel (DOP) was conducted. In addition, a special request was submitted to the legislative auditor by Senator Rollan A. Roberts, chair of the Senate Committee on the Workforce, in April 2021, with specific issues that ultimately influenced the audit objectives and contents of the review. The objectives were to assess the technological capabilities of the civil service hiring system, determine the impacts of job postings that have a continuous status, evaluate the State's ability to maintain past vacancies and related historical data, and determine the number of state employees who may qualify for additional assistance based on individual income. The issues of this report are highlighted below.

Frequently Used Acronyms in This Report:

DNR – Division of Natural Resources

DOP – Division of Personnel

FTE – Full-time equivalent

HR – Human resources

OASIS - Our Advanced Solution with Integrated Systems (the system used by state agencies to upload financial information, documentation, and pay vendors)

NEOGO – DOP's internal hiring software and applicant tracking system

PERD – Performance Evaluation and Research Division, within the Office of the Legislative Auditor

PSA – public service announcement; DOP's term for job postings available to public applicants that are listed for 15 days

SBO – State Budget Office

SNAP - Supplemental Nutrition Assistance Program

Report Highlights:

Issue 1: Each Year Several Million Dollars Are Appropriated for Budgeted Vacant Positions, Many of Which Have Been Vacant for Several Years with No Evidence that Agencies Are Trying to Fill Them

- For FY 2022, a total of \$226.9 million was appropriated in the State Executive Budget for 4,857 vacant positions from various funding sources.
- The State General Revenue Fund was the appropriation source for nearly half (2,289) of the State's active vacancies, totaling over \$101.5 million, including estimated benefits.
- A total of 291 current vacancies funded by the State General Fund have been vacant since 2014 through 2018 and continue to receive annual appropriations totaling more than \$13.4 million.
- There is no evidence that state agencies are actively advertising many of the oldest vacancies that have been unfilled since 2014 – 2018 and still receiving appropriations.

- The Division of Health, and the Division of Corrections and Rehabilitation have the most vacant positions, with over 800 each.
- There is limited evidence that state agencies are utilizing intradepartmental transfers to move vacancy appropriations to other line-item budget expenses.

Issue 2: The Current Civil Service System Exhibits Progress, But Further Improvements Can Be Made to Reduce Redundancies and Fully Utilize the Capabilities of the NEOGOV Application Software

- The DOP utilizes HR software known as NEOGOV that facilitates the hiring process by auto-scoring job applicants; however, not all components offered by NEOGOV are being enacted by the DOP at this time.
- The DOP is statutorily required to maintain records of employment for classified employees but not historical employment records and statistics in general.
- The DOP does not track and correlate the number of employees of state programs relative to the state population served by these programs, but other states have established legal requirements in this area to limit the size of state government.

Issue 3: There Are Currently Over 300 Full-Time West Virginia State Employees Who May Qualify for Assistance Programs Based on Income

- PERD's analysis of an OASIS employment report containing all state government departments and public higher education entities produced a list of 383 FTEs with a salary under \$23,000, which would meet SNAP qualifications for a household of two.
- Many employees who may qualify for assistance programs work for the Division of Health in positions such as housekeepers, cooks, and food service workers.

PERD's Response to the Agency's Written Response

PERD received the DOP's response to the draft copy of the review on April 29, 2022. The agency's full response can be seen in Appendix D. The DOP generally agreed to comply with recommendations 6-9, as those recommendations were specific to the agency. Recommendations 1-5 refer to the Legislature's approach to managing state job vacancies, and the budgeting process in general. Therefore, the first five recommendations did not require a response from the DOP. The agency's response additionally offered a technical correction pertaining to the DOH's exemption from the DOP hiring process, which PERD accepted and incorporated into the final draft of this report.

PERD's Response to the State Budget Office's Written Response

PERD received the State Budget Office's (SBO) response to the draft copy of the review on August 29, 2022. The agency's full response can be seen in Appendix D. Overall, the SBO acknowledges the accuracy of the report, but it expressed some concerns that the findings of the report could be misunderstood without further explanations. Below are excerpts of the SBO's concerns and PERD's response to those concerns.

SBO Response:

The SBO states that *"the information within your report does accurately reflect budget bill appropriated funding for Personal Services and Employee benefits,"* but also indicates a concern *"that this report could lead to a potential misunderstanding that millions of dollars are being appropriated for vacant positions that are not being used properly or could be better used for other purposes."*

PERD Response:

While it is factual that a total of \$226.9 million was budgeted for vacancies in fiscal year 2022, the report does not suggest that appropriations for vacant positions are being used improperly. PERD acknowledges that appropriations are required for the budgeting process in advance of any given fiscal year so that necessary funding is available if vacant positions are filled at any time during that year. Notwithstanding, several of the oldest vacancies in the system are not being publicly advertised by their respective agencies, which suggests there are no intentions of filling many vacant positions. While this is not a misuse of funding, it raises the concern of whether it is prudent to continue appropriating funds for vacant positions that have no evidence of efforts to fill them. Therefore, PERD contends that appropriations for many vacant positions can be eliminated to reduce the budget or be used as the Legislature sees fit.

SBO Response:

The SBO also states that vacancy appropriations are used to pay for items such as contract workers, overtime disbursements, and temp employees. Agencies utilize these avenues to remedy constraints stemming from hiring challenges and critical staffing issues. The SBO asserts, *"If there were a sweep of the budgeted positions and associated funding then the state hospitals would not be able to hire the contract workers to keep the hospitals open."* The agency further concludes that deactivating vacant positions would leave agencies underfunded.

PERD Response:

PERD recognizes the hiring challenges faced by state agencies, especially for the Department of Health and Human Resources, and the Division of Corrections and Rehabilitation. However, PERD's report does not advocate the de-funding of all vacancies across the board, but rather recommends prohibiting State General Fund appropriations for positions that have been vacant longer than a certain length of time such as three or four years. Removing the 38 vacancies that have been unfilled since 2014 and 2015 alone would result in a General Fund cost savings of over \$1.7 million.

SBO Response:

The SBO also states in its response that the Executive and Legislative branches have used dated vacancies for budget reductions and realignment in the past. The SBO claims that *“it is important to also understand that at the end of the fiscal year there is no gain for the agency.”* The SBO asserts that *“Any budget that was appropriated to a vacant position that was not transferred to another item of appropriation within an agency’s budget is automatically expired at the end of each fiscal year.”* Therefore, *“the overall budget has not changed.”*

PERD Response:

The statements by the SBO that *“there is no gain for the agency”* and *“the overall budget has not changed”* are not entirely true. While this may be true when vacancy appropriations are used to pay overtime or temporary employees, it is not true when vacancy appropriations are used for pay raises. For example, if vacancy appropriations are used to fund pay increases for filled, permanent positions, then those higher salary positions will be part of next year’s budget. Thus, next year’s budget will be higher as a result of using vacancy appropriations to fund pay raises.

SBO Response:

The SBO additionally specifies, *“Some Federal grant requirements can require a set number of positions be budgeted (and never intended to be filled at the state level) to allow and/or continue state control of programs.”*

PERD Response:

As Table 4 of the report shows, federal funding accounts for 12.4% of the overall vacancies, as General and Special Revenues are used for most vacancy appropriations. Federal funding is appropriated for none of the 2014 vacancies, two of the 2015 vacancies, and eight of the 2016 vacancies. Therefore, many of the oldest vacancies could likely still be considered for deactivation without impacting federal requirements.

SBO Response:

The SBO states that there is an ongoing Executive Branch project to require a high-level approval for vacancies that have been unfilled for 12 or more months.

PERD Response:

This may be a helpful mechanism going forward, but accountability requirements for state agencies, as outlined in recommendation two of the report, would also assist the Legislature with justifying appropriations for vacant positions. Furthermore, PERD agrees that the Executive Budget reports and monthly FTE reports published on the SBO’s website are valuable informational sources, but additional reporting of specific categories such as the calculated annual vacancy rate, turnover rate, and number of vacant positions (as opposed to vacant FTEs) – which are not currently being published in any annual report – can contribute to helpful studies regarding historical state employment trends.

Recommendations

1. *The Legislature should consider prohibiting State General Fund appropriations for positions that have been vacant longer than a certain length of time such as three or four years.*
2. *The Legislature should consider requiring some accountability of state agencies in budgeting for vacant positions. Such measures to consider include separate reporting of vacant positions that includes the date in which vacant positions became vacant, the associated salaries, and benefits. In addition, the Legislature should consider requiring an explanation for why positions have been vacant for considerable lengths of time, the likelihood that positions will be filled, and a justification statement as to why the Legislature should fund the requested vacant positions.*
3. *The Legislature should consider working with the State Budget Office and executive branch agencies to link line items for personal services within the budget bill to the specific programs for which those personal services are to be allocated.*
4. *The Legislature should consider initiating an annual report be done that would calculate state agencies' turnover and vacancy rates, and compile historical data on filled and vacant positions. The report should also include data on temporary staff, overtime expenses, and the use of any contract staff.*
5. *The Legislature should consider having an independent review conducted that evaluates state programs based on ratios of population served to the level of employment of the programs serving the population.*
6. *The DOP should continue collaborating with covered agencies, when appropriate, to reduce the number of continuous postings and forge efficiencies within the hiring system. The DOP should also consider adding a separate tab for "seasonal/internship" to the drop-down menu on its job opportunities website, as exemplified by the Rhode Island Division of Human Resources' version of its NEOGOV hiring website.*
7. *The DOP should implement any NEOGOV features currently not being utilized that are cost-effective and beneficial to the agency, the hiring departments, and the job applicants.*
8. *The DOP should request a follow-up assessment from NEOGOV by the end of calendar year 2022 to re-evaluate potential progress and/or further opportunity for improvements regarding the agency's utilization of the hiring system. The DOP should also share the results with the Legislature as a status update method.*
9. *The DOP should develop a NEOGOV Agency Insight Reference Guide to assist hiring agencies and applicants that may be unfamiliar with the hiring process.*

ISSUE 1

Each Year Several Million Dollars Are Appropriated for Budgeted Vacant Positions, Many of Which Have Been Vacant for Several Years with No Evidence that Agencies Are Trying to Fill Them

Issue Summary

The State of West Virginia's fiscal year 2022 executive budget included funding for thousands of vacant positions, many of which had been vacant for several years with no evidence that agencies were actively trying to fill them. The funding sources for these vacant positions are federal funds, the state general fund, state special revenues, the State Road Fund, and Lottery revenues. Table 1 below shows that as of December 2021, there were 4,857 budgeted vacant positions, which is 12 percent of all budgeted positions. Nearly half of those vacancies were funded through the state general fund totaling over \$101 million. Moreover, nearly 500 vacancies have been continuously unfilled for at least four years for a budgeted amount of \$22.8 million in annual salaries and benefits.

Nearly 500 vacancies have been continuously unfilled for at least four years for a budgeted amount of \$22.8 million in annual salaries and benefits.

Fund Type	Total Budgeted Vacant Positions**	Percent of All Budgeted Positions	Total Salary Appropriations for Vacant Positions	Estimated Total for Budgeted Benefits	Grand Total for Budgeted Vacancies
All Funds	4,857	12%	\$171,904,988	\$55,009,596	\$226,914,584
General*	2,289	5.5%	\$76,894,208	\$24,606,147	\$101,500,355

Original Vacancy Years	Total Budgeted Vacancies	Percent of Total Budgeted Vacancies	Total Salary Appropriations for Vacant Positions	Estimated Total for Budgeted Benefits	Grand Total for Budgeted Vacancies
2014 ¹ - 2018	494	10%	\$17,348,333	\$5,551,467	\$22,899,799
2019 - 2021	4,363	90%	\$154,556,655	\$49,458,130	\$204,014,785

*Source: PERD calculations using OASIS reports WV-HRP-PC-010 and WV-HRP-PC-024 as of 12/31/2021.
*Includes a relatively small amount of Lottery Funds.
**Vacant positions do not include vacancies for Marshall University, West Virginia University, and West Virginia University at Parkersburg because these institutions do not provide data for entry into OASIS.*

¹ Thirteen (13) active vacancies have a vacancy date from early July 2014. Due to the State transitioning to OASIS from its previous data system in calendar year 2014, the 13 positions were likely vacant in fiscal years prior to 2014.

While the amount of funds supporting vacant positions is substantial, some of these appropriations are traditionally used to fund other personnel-related costs such as contractual staff, temp positions, and overtime expenses. Nevertheless, a percentage of vacancy appropriations could be diverted for more productive uses. The Legislature should consider requiring some accountability of state agencies in budgeting for vacant positions. Such measures to consider include separate reporting of vacant positions that includes the date in which vacant positions became vacant, the associated salaries, and benefits. In addition, the Legislature should consider requiring an explanation for why positions have been vacant for considerable lengths of time, the likelihood that positions will be filled, and a justification statement as to why the Legislature should fund the requested vacant positions. The Legislature should also consider denying appropriations for positions that have been vacant longer than a certain number of fiscal years.

The Legislature should also consider denying appropriations for positions that have been vacant longer than a certain number of fiscal years.

Nearly \$227 Million Were Used to Budget 4,857 Vacant Positions in the FY 2022 Executive Budget

PERD's analysis of a specialized vacancy report executed in the State's accounting system, Our Advanced Solution with Integrated Systems (OASIS), from mid-December 2021 found a total of 4,857 unfilled state government positions. A total of 106 agencies had at least one vacant position. For clarification, terminology involving *positions* differentiates from the commonly used metric of *full time-equivalent* (FTE), which measures the number of authorized units. FTE positions are permanent, either full-time or part-time, but mathematically equated to full-time. Ultimately, vacant FTEs and vacant positions are not the same because in some cases, an employee with a position authorized for 1.0 FTE (which is considered a standard full-time amount) may only work part-time (or .50) in reality. However, the same position will populate as being simultaneously filled *and* vacant within the OASIS system, although it is simply being worked as a part-time position under a full-time authorization.

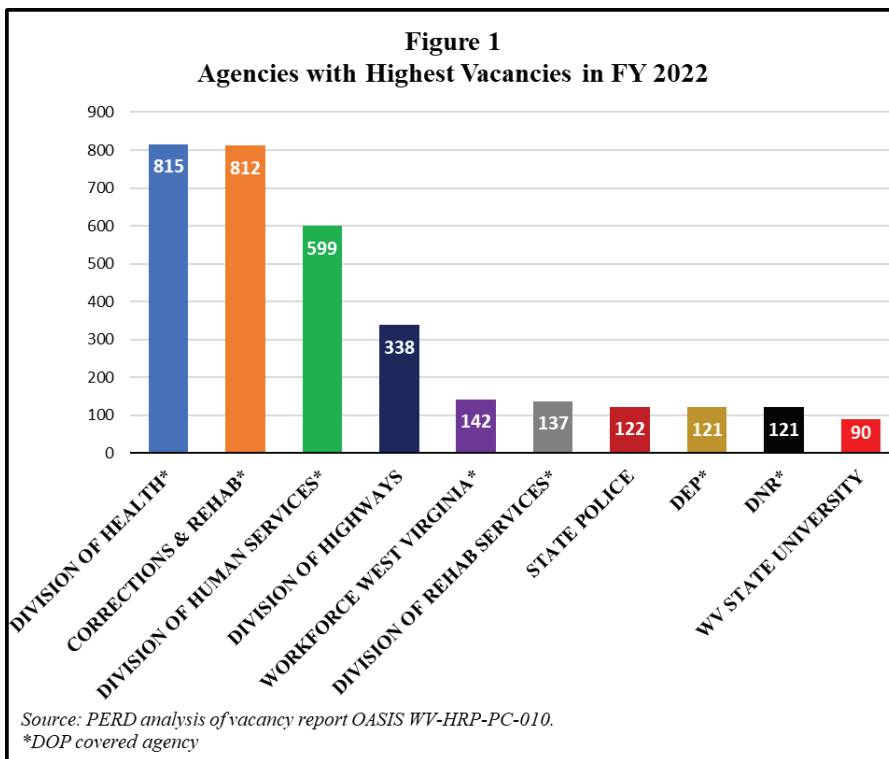
A total of 106 agencies had at least one vacant position.

Written testimony from the West Virginia State Budget Office (SBO) deputy director confirmed, *"If the position is authorized for more than it is filled it will show some of the positions as filled and some as vacant."* The Division of Personnel (DOP) director additionally confirmed with PERD: *"The employing agency is responsible for establishing the FTE of a position based upon the schedule of the incumbent and needs of the agency."* The director added, *"Some employees are hired as part-time or later transition to part-time for medical or personal reasons."* Conclusively, the number of FTEs are not reflective of the number of true vacancies in terms of individual positions. Therefore, PERD calculated the number of unfilled positions by counting the total number of unique position ID numbers that are strictly vacant.

PERD calculated the number of unfilled positions by counting the total number of unique position ID numbers that are strictly vacant.

Figure 1 below displays the 10 agencies with the most vacant positions. The top three, which are divisions covered by the DOP civil service system, had noticeably high rates compared to the next seven agencies. The Division of Health, and the Division of Corrections and Rehabilitation had the highest number of vacancies with over 800 each, as both divisions contain positions with significant hiring and retention issues. The Division of Human Services had almost 600 vacancies, while the Division of Highways had over 300. (The Division of Highways is no longer a part of the DOP hiring system after the Legislature voted to exempt the agency from the civil service hiring process in 2017, pursuant to W.Va. Code §17-2A-24.) Ultimately, 7 of the top 10 agencies with the most vacant positions are covered by the DOP civil service system. Depending on the agency, the vacancies are appropriated by a variety of funding sources.

The Division of Health, and the Division of Corrections and Rehabilitation had the highest number of vacancies with over 800 each.



The State’s accounting system records the distinct position identification number for each active position, an associated date in which the position was last vacated, and the salary for the vacant position.

The deputy director of the SBO confirmed that “all active permanent positions when vacant must be funded by the amount supported by a valid budget amount. If there is no position budget to support a position, the position must be inactivated.” The State’s accounting system records the distinct position identification number for each active position, an associated date in which the position was last vacated, and the salary for the vacant position.² PERD examined all vacant positions,

² Although benefits for filled and vacant positions are stored in OASIS, there is no report that would tabulate the amount of benefits for vacant positions. Therefore, the benefit amounts were estimated using a sample of actual budgeted benefit amounts for vacancies in the FY 2022 state budget.

the dates in which they became vacant, and the associated salaries. Table 2 below is a comprehensive account of all active budgeted vacancies in the FY 2022 executive budget as of December 14, 2021. A total of 4,857 vacant positions had budgeted funding totaling nearly \$227 million in salaries and estimated benefits from different funding sources. The vacancy counts are organized by the calendar year in which positions originally became vacant. As can be seen, most active vacancies have originating dates from the last two calendar years, 2020 and 2021. However, 928 positions that were vacated in calendar years 2014 through 2019 were budgeted nearly \$43 million in salaries and estimated benefits in the FY 2022 executive budget. Further analysis was conducted on the top four agencies with the most vacancies (see Appendix C).

928 positions that were vacated in calendar years 2014 through 2019 were budgeted nearly \$43 million in salaries and estimated benefits in the FY 2022 executive budget.

Table 2
Budgeted Vacant Positions by the Year They Became Vacant
Budgeted Amounts for All Funds
December 2021

Vacancy Origination Year	Number of Vacancies	Total Annual Salaries	Estimated Employee Benefits*	Grand Total Vacancy Appropriations
2014	20	\$650,896	\$208,287	\$859,183
2015	33	\$1,406,841	\$450,189	\$1,857,030
2016	64	\$2,316,927	\$741,417	\$3,058,344
2017	78	\$2,656,981	\$850,234	\$3,507,215
2018	299	\$10,316,689	\$3,301,340	\$13,618,029
2019	434	\$15,168,674	\$4,853,976	\$20,022,650
2020	746	\$25,697,664	\$8,223,252	\$33,920,916
2021	3,183	\$113,690,317	\$36,380,901	\$150,034,324
Totals	4,857	\$171,904,988	\$55,009,596	\$226,914,584

Source: PERD analysis of OASIS vacancy report WV-HRP-PC-010.

*Benefits estimation is based on 32 percent of total salary, which PERD derived from a sample of state agency budgets.

Additionally, Table 3 is further analysis of all active vacancies within West Virginia state government, as of December 14, 2021, **funded by general and lottery revenue only**. The State General Fund accounts for nearly half of the total vacancy appropriations, with the grand total, including estimated benefits, surpassing \$101.5 million.

The State General Fund accounts for nearly half of the total vacancy appropriations, with the grand total, including estimated benefits, surpassing \$101.5 million.

**Table 3
Budgeted Vacant Positions by the Year They Became Vacant
State General Fund Budgeted Appropriations*
December 2021**

Vacancy Origination Year	Number of Vacancies	Total Annual Salaries	Estimated Employee Benefits**	Grand Total Vacancy Appropriations
2014	19	\$626,957	\$200,626	\$827,583
2015	19	\$711,323	\$227,623	\$938,946
2016	48	\$1,676,118	\$536,358	\$2,212,475
2017	44	\$1,556,550	\$498,096	\$2,054,646
2018	161	\$5,582,339	\$1,786,348	\$7,368,687
2019	247	\$8,113,102	\$2,596,193	\$10,709,295
2020	413	\$13,226,035	\$4,232,331	\$17,458,366
2021	1,338	\$45,401,785	\$14,528,571	\$59,930,356
Totals	2,289	\$76,894,209	\$24,606,146	\$101,500,354

Source: PERD analysis of OASIS vacancy report WV-HRP-PC-010.

**Includes a relatively small amount of Lottery Funds.*

***Benefits estimation is based on 32 percent of total salary, which PERD derived from a sample of state agency budgets.*

Table 4 provides the total appropriations from each of the five fund types for all FY 2022 state government vacancies, as well as a percentage breakdown. Funding sources for vacant position salaries vary between general revenue, lottery revenue, special revenue, federal funds, and the state road fund (for specific agencies). It is PERD’s professional judgment that the information in OASIS is reasonably accurate for auditing purposes, as the financial information contained in the system is tested on a regular basis. Therefore, conclusions based on the aforementioned OASIS vacancy report determined that most of active vacancy salaries are appropriated from general revenue, while lottery revenue is the least utilized fund for this type of appropriation.

Funding sources for vacant position salaries vary between general revenue, lottery revenue, special revenue, federal funds, and the state road fund (for specific agencies).

Table 4
Budgeted Active Vacant Positions by Fund
FY 2022

Funding Sources	Total Budgeted Salaries*	Total Estimated Benefits	Percent of Total Vacancy Funding
State General Fund	\$76,271,654	\$24,406,929	44.4%
Special Revenue	\$59,095,500	\$18,910,560	34.4%
Federal Funds	\$21,356,953	\$6,834,225	12.4%
State Road Fund	\$14,558,327	\$4,658,665	8.5%
Lottery Revenue	\$622,554	\$199,217	0.4%
Totals	\$171,904,988	\$55,009,596	100%

Source: PERD calculations using OASIS report WV-HRP-PC-010.

*Does not include appropriations for vacancies at West Virginia University, West Virginia University at Parkersburg, and Marshall because OASIS does not receive data from those institutions report.

There Is No Evidence that State Agencies Are Attempting to Fill Many of the Older Vacant Positions

The oldest vacant positions within OASIS date back to 2014. Some of these active positions have likely maintained a vacant status prior to 2014, as that was the year the State transitioned to OASIS. Therefore, several of the earliest vacancies have a default vacancy date of July 1, 2014, which is when the vacancy data were migrated into OASIS.

Legislative Rule §143-1-9.5e states: “If a posted vacancy is not filled within six (6) months of the established closing date, the appointing authority must re-post the vacancy prior to an appointment to the vacant position.” Therefore, the originating agency would be responsible for re-submitting the transaction for advertisement to the DOP in the event a vacancy remains unfilled after six months. As of December 2021, nearly 500 positions in OASIS have been vacant four or more years. Based on a lack of advertising evidence, PERD concludes that most of the oldest vacancies associated with DOP-covered agencies were not being actively advertised on the DOP’s internal job vacancy portal that is accessible to the public but is only relevant to potential transfer employees already working for the State. Except for healthcare-related, critical-need positions, public job postings could not be found for 80 of the 195 vacancies that were vacated from 2014 to 2017. Sixty-one (61) of the 80 vacancies *not* being advertised are DOP-classified, making those positions subject to the above-referenced legislative rule §143-1-9.5e that requires the originating agency to submit a request to the DOP to have those vacancies re-advertised. Additionally, some positions listed

Except for healthcare-related, critical-need positions, public job postings could not be found for 80 of the 195 vacancies that were vacated from 2014 to 2017.

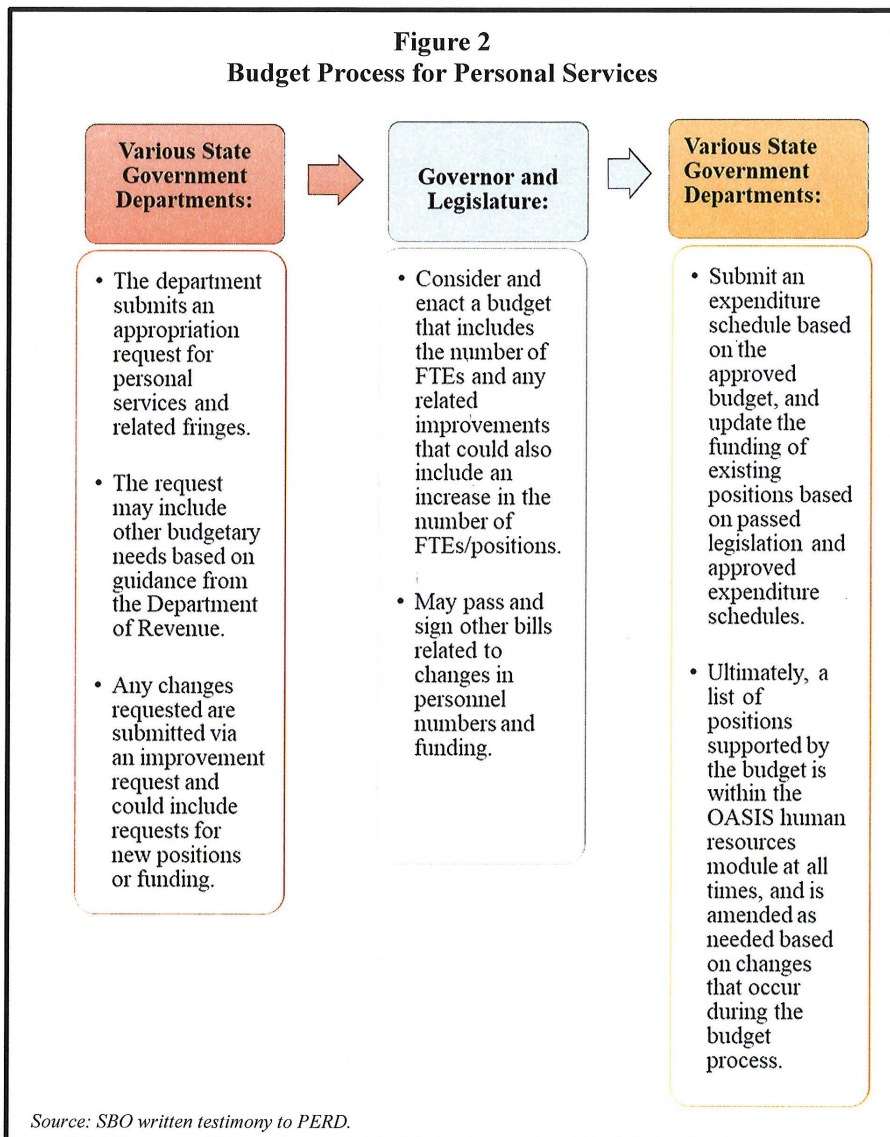
on the DOP website’s critical-need job vacancies list are, in turn, not listed with other postings on the main job opportunities page, making it more difficult for job seekers to apply for certain high demand positions.

Evidence indicates that agencies are not making a significant effort to fill most of the older vacancies; yet these positions are still budgeted on an annual basis. The total amount of State General Fund salaries and estimated benefits for the 291 budgeted vacant positions with vacancy dates from 2014 to 2018 equals \$13,402,337. This is a significant amount that could be used more productively by the State. **Therefore, the Legislative Auditor recommends that the Legislature consider prohibiting State General Fund appropriations for positions that have been vacant longer than a certain length of time such as three or four years.** Such positions would be eliminated from budget requests and established as “inactive” in OASIS.

Evidence indicates that agencies are not making a significant effort to fill most of the older vacancies; yet these positions are still budgeted on an annual basis.

There Is Limited Evidence that State Agencies Are “Padding Their Budgets” by Extensive Use of Budgeted Vacancy Funds for Other Line-Item Budget Expenses

In terms of the budgeting process, funding for employee salaries is appropriated to “personal services,” which is defined by the state budget bill as “salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit.” Figure 2 below, based on testimony from the SBO, explains the basic process for how agencies budget personal services for active positions.



In written testimony to PERD, the SBO explained, “As per the code and budget bill an agency head can move between line items in the budget bill with some limitations.”

Separate from the general personal services budgeting process, an agency head can request to transfer funds to other lines of appropriation. In written testimony to PERD, the SBO explained, “As per the code and budget bill an agency head can move between line items in the budget bill with some limitations.” The FY 2022 budget bill stipulates:

That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,”

“equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account...

Furthermore, the SBO may process a submission from an agency head known as an intra-departmental transfer that *“is used to transfer between appropriations within the same fund of a department’s appropriated funds.”* Said transfers can include funding originally appropriated for personal services. When requesting an intra-departmental transfer, the agency head must *“be specific for the purpose of the transfer.”* Once the transfer form is completed by the agency head and submitted to the SBO within the OASIS financial portal, the document is received into workflow for approval or rejection by the SBO.

In some cases, agencies may utilize the intra-departmental transfers to move vacant salary appropriations out of personal services and into another fund for a separate purpose, if it is within the established controls of being approved by the SBO and in an amount that is within five percent of the agency’s budget. The SBO confirmed to PERD:

There could be various reasons why the budget was moved to another appropriation. There are also times that an agency has internal reorganizations causing the budget to be moved from one appropriation to another. Agencies also tend to keep a “reserve” amount budgeted in personal services for pay raises, annual payouts if someone retires, etc. This is a budget amount in addition to what is needed to fully fund each position.

Table 5 is a sample of the number of intra-departmental transfers that occurred for the top agencies with historically high vacancies (as previously depicted in Figure 1) over the last four complete fiscal years. The table only includes transfers that involved moving funds out of personal services that were originally appropriated for established permanent positions including vacant positions. The total amount transferred, as listed in the last column of Table 5, can include monies originally appropriated for multiple permanent vacant positions. As can be observed, this type of intra-departmental transfer does not appear to occur pervasively or evenly among agencies, except for the Division of Corrections and Rehabilitation. The table shows that some agencies have not requested this type of transfer at all in the last four years.

The SBO may process a submission from an agency head known as an intra-departmental transfer that “is used to transfer between appropriations within the same fund of a department’s appropriated funds.”

As can be observed, this type of intra-departmental transfer does not appear to occur pervasively or evenly among agencies, except for the Division of Corrections and Rehabilitation.

Table 5
Intra-departmental Personal Services Transfers of
Appropriated Permanent Position Funds
FY 2018 - 2021

Agency	Number of Personal Services Transfers Out				Total Amount Transferred
	2018	2019	2020	2021	
Division of Health	1	2	0	0	\$550,000
Division of Corrections	13	3	17	7	\$9,415,033
Division of Human Services	0	0	0	0	-
Division of Highways	0	0	0	0	-
Workforce West Virginia	0	1	0	0	\$7,500
Division of Rehabilitation Services	0	0	0	0	-
State Police	0	0	1	2	\$2,150,000
Department of Environmental Protection	2	3	0	2	\$691,367
Division of Natural Resources	1	2	1	3	\$1,329,472
West Virginia State University	0	0	0	0	-

Source: PERD analysis of OASIS report WV-FIN-BC-015.

The complexity of intra-departmental transfers can vary by transaction and agency. For example, the transfers can be simple transactions wherein one line item is transferred out of personal services funding budgeted for a vacant position, and then directly transferred into a current expenses fund for the same appropriation amount. For example, a permanent position appropriation of \$50,000 can be transferred to a \$50,000 appropriation for maintenance to afford an agency the necessary costs associated with building and structure improvements.

However, an individual intra-departmental transfer can also involve several line items from various funds being transferred between several other line-item appropriations. For example, one single intra-departmental transaction for the Division of Corrections and Rehabilitation from August 2017 comprised 70 different line items totaling \$1.2 million that was transferred to 41 other line items that totaled \$1.2 million. In sum, 111 total line items were reappropriated within one authorization. PERD ultimately found that within the 10 agencies sampled, most intra-departmental transfers did not contain complex transactions with numerous line items transferred to other numerous line items, except for the voluminous transfers approved for the Division of Corrections.

For example, a permanent position appropriation of \$50,000 can be transferred to a \$50,000 appropriation for maintenance to afford an agency the necessary costs associated with building and structure improvements.

Analysis of the intra-departmental transfer report determined that agencies used vacancy appropriations for some of the following purposes, as authorized by the SBO upon review of the transfer application:

- **Division of Health** – federal subrecipient disbursements, and professional services.
- **Division of Corrections and Rehabilitation** – Social Security matching, workers compensation, computer services, pension and retirement, and the transfer of permanent position funding from one correctional facility to another.
- **Workforce West Virginia** – office expenses.
- **State Police** – equipment purchases, building improvements and maintenance.
- **Department of Environmental Protection** – reclamation of non-state property, employee travel expenses, office expenses, rental expenses, and contractual services.
- **Division of Natural Resources** – professional services, contractual services, farm expenses, research, educational, medical contracts, and PEIA reserve transfer.

The resulting product lacks clarity and accountability in that the amounts appropriated for various agencies are not organized based on filled positions, vacant positions, or by program.

Because the document ID numbers associated with the intradepartmental transfers in the OASIS report did not include invoice attachments within the OASIS document catalogue for PERD to access, the report is limited to providing the general appropriation categories, as listed among the bullet points above, and does not provide further detail regarding specific uses for the transferred-in appropriations.

It should be noted that when the budget bill is devised, an aggregate number of appropriations for personal services are utilized from the SBO. The resulting product lacks clarity and accountability in that the amounts appropriated for various agencies are not organized based on filled positions, vacant positions, or by program. **Therefore, the legislative auditor recommends that the Legislature work with the SBO and executive branch agencies to link line items for personal services directly to the specific programs for which those personal services are to be allocated.**

A Mechanism Should Be Implemented to Accurately Document the Number of Current and Historical Job Vacancies for State Government

To establish accountability and maintain accurate, consistent record-keeping, a mechanism should be implemented to report the annual number of vacant positions in West Virginia state government.

West Virginia State Code does not require that this specific category of personnel information be provided in terms of current or historical data. When PERD initially requested historical vacancy information from the DOP, the agency director replied:

I wish we could provide assistance for this request. However, the Division of Personnel does not have access to historical vacancy data. The State Budget Office may be able to provide assistance in this area, but it has been my understanding that the WVOasis system only has current vacancy data.

The SBO executes monthly reports containing data for all filled and vacant positions in state agencies, which were provided to PERD and utilized to determine several historical factors such as the percentage of vacant positions over the last four fiscal years. While the monthly reports contained useful data, significant further analysis was required to isolate the relevant information to measure specific vacancy factors. The DOP director confirmed that the SBO forwards the monthly employment reports to her division on a regular basis, but explained, *“The DOP reviews the information but has not relied upon the report for operations.”* The DOP also contends, *“Ideally the wvOASIS system could be used to track and generate reports regarding historical vacancy information as part of the position management and budgeting functionality.”*

The SBO maintains an archive of monthly FTE reports going back as far as FY 2009 on its website. However, a report conveying exclusive historical vacancy data is currently not being produced on a regular basis, nor is there a requirement to share this information with the Legislature. West Virginia could benefit from replicating certain aspects of the following examples where other states have publicly released reports involving vacancy data:

- In 2002, the Montana Legislative Fiscal Division issued a report to the Legislative Finance Committee that detailed alternative methodologies for funding personal services that could potentially result in cost savings. The report noted that *“staff turnover and vacancies often result in personal services expenditures lower than the amounts appropriated.”* Other objective conclusions were:
 - Vacancy savings *“can result in significant reductions in the amount appropriated for personal services, which probably better reflect the actual costs of personal services.”*
 - Vacancies do not occur evenly across all agencies, as a division might experience high turnover rates in one year but not in the next. Therefore, there is no guarantee that the historical trends are an accurate predictor of future experience.

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A report conveying exclusive historical vacancy data is currently not being produced on a regular basis, nor is there a requirement to share this information with the Legislature.

- A 2019 report from the Texas Conference Committee discussed strategic planning for vacancy issues within certain agencies. The state Health and Human Services Commission, for example, indicated it would devise a plan “to achieve cost savings by reducing vacant or underutilized FTEs” or to recalibrate redundant vacancy funding so it could instead be used for “high priority agency functions including contract oversight and management,” as mandated by the Texas Legislature’s General Appropriations Act.
- The most recent Michigan budget bill, passed in September 2021, requires every state department, on a quarterly basis, to report to the senate and house appropriations committees:
 - the number of FTEs in pay status by type of staff and civil service classification, and
 - a comparison of the number of authorized FTEs to the actual number of employed FTEs.
- Section 4.11 of the California Budget Act of 2021 requires the Department of Finance to issue an annual personnel report to the Joint Legislative Budget Committee and Legislative Analyst. The report is designed “to promote greater transparency in how departments use position authority” and is required to be posted to the Department of Finance’s website for easy access to the public. The report is required to include the actual numbers of the past year for:
 - percentage of vacant positions for each department by month,
 - total authorized positions for each department, and
 - average percentage of vacant positions throughout the year for each department.

The state Health and Human Services Commission, for example, indicated it would devise a plan “to achieve cost savings by reducing vacant or underutilized FTEs”.

This could lead to more cost savings, as the annual reports may bring attention to unfilled positions that are no longer needed.

Therefore, the legislative auditor recommends the Legislature implement accountability requirements related to tracking job vacancies within West Virginia state government departments, including the annual reporting of the total number of vacancies and the length of time each vacancy has gone unfilled. This could lead to more cost savings, as the annual reports may bring attention to unfilled positions that are no longer needed.

Conclusion

This analysis shows that there is a substantial amount of funds appropriated for vacant positions, many of which have been vacant for

several years with no evidence that state agencies are attempting to fill them. State general funds supported nearly 2,300 vacant positions as of December 31, 2021 in the amount of over \$101 million. This analysis suggests that the Legislature can divert several million dollars to more effective use other than budgeting for vacant positions that likely will not be filled. Moreover, annual turnover rates result in filled positions becoming vacant that may not be filled in the current fiscal year. This provides additional personal services funds that make the need for many budgeted vacant positions less necessary. Most of the vacancies originating between 2014 and 2017 do not appear to be currently advertised, and there is limited evidence that agencies need or make extensive use of the budgeted funds for vacant positions through intradepartmental transfers. Consequently, the Legislature should consider de-funding active vacancies that are at least four years old. Finally, a consistent evaluation of historical and current turnover and vacancy rates for the State could be useful to all agencies, as well as to the Legislature for budgetary purposes that would lead to long-term cost savings and provide funds for other programs.

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Recommendations:

1. *The Legislature should consider prohibiting State General Fund appropriations for positions that have been vacant longer than a certain length of time such as three or four years.*
2. *The Legislature should consider requiring some accountability of state agencies in budgeting for vacant positions. Such measures to consider include separate reporting of vacant positions that includes the date in which vacant positions became vacant, the associated salaries, and benefits. In addition, the Legislature should consider requiring an explanation for why positions have been vacant for considerable lengths of time, the likelihood that positions will be filled, and a justification statement as to why the Legislature should fund the requested vacant positions.*
3. *The Legislature should work with the SBO and executive branch agencies to link line items for personal services within the budget bill to the specific programs for which those personal services are to be allocated.*
4. *The Legislature should consider initiating an annual report be done that would calculate state agencies' turnover and vacancy rates, and compile historical data on filled and vacant positions. The report should also include data on temporary staff, overtime expenses, and the use of any contract staff.*

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ISSUE 2

The Current Civil Service System Exhibits Progress, But Further Improvements Can Be Made to Reduce Redundancies and Fully Utilize the Capabilities of the NEOGOV Application Software

Issue Summary

The DOP has recently maintained focus on full implementation of the NEOGOV human resources (HR) software, which can auto-score job applicants and subsequently expedite the hiring process for more than 50 different agencies that are covered in its merit system. This facilitates the DOP's statutory responsibilities to hire "state personnel of the highest ability and integrity," and has initially produced positive results in terms of making the overall application and hiring process more efficient. Notwithstanding, NEOGOV offers other facets within its software that could be implemented to further enhance the efficiency of the hiring system for the State of West Virginia, as well as the appeal to applicants seeking employment with a DOP-covered agency.

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The DOP Administers an Essential Service and the Hiring Process Is Complex

Pursuant to W. Va. Code §29-6-1 *et seq.*, the DOP was established by the West Virginia Legislature in 1989 as an agency within the Department of Administration. The agency's main purpose is to manage the personnel network for various other state agencies that are covered by the DOP merit system. Positions within covered agencies are commonly known as "classified," and must be filled through the DOP applicant screening and referral process, unless specifically deemed "classified-exempt" by State Code or the State Personnel Board. The board, which is chaired by the secretary of the Department of Administration, is statutorily permitted to propose rules, administer classification plans, and assign compensation ranges to positions. The DOP's major functions, as directed by Chapter 29, include:

Positions within covered agencies are commonly known as "classified," and must be filled through the DOP applicant screening and referral process, unless specifically deemed "classified-exempt" by State Code or the DOP Board.

- evaluating applicants for appointment or promotion to classified positions,
- establishing and applying a system of classification and compensation for positions,
- maintaining records of employment for classified employees, and
- providing training in human resource management and the operation of the state personnel system.

The current hiring procedure for covered agencies involves a multi-step process that commonly requires multiple exchanges between the DOP and covered state agencies that are hiring for positions. A

request for a job posting for an open position must initially be submitted to, and authorized by, the DOP. Per W.Va. Code §29-6-24, the job must be advertised internally for at least 10 days “before making an appointment to fill the job opening.” In turn, §29-6-10(3) requires that job postings available to the general public, commonly called a “public service announcement” (PSA), be announced “at least fifteen days in advance of the date fixed for the filing of applications.” These legally-binding requirements can prolong the hiring process but, the agency has suggested that the Legislature reduce these requirements to 7 calendar days for internal postings and a 10-calendar-day limit for PSAs. The DOP has made significant progress with efforts to reduce the hiring timeline. While it previously took up to 90 days or longer to move an application through every necessary step of the review process, the DOP director confirmed with PERD in March 2022, “We have worked to get the application process down to 20 days at this point. An external posting is required to be posted for 15 days then we get the applications rated and referred back to the agency in 5 days or less.”

The DOP currently manages personnel activities for 52 state agencies, including the Department of Health and Human Resources and the Department of Homeland Security – both of which have over 5,000 FTEs and multiple positions with historically challenging retention and hiring issues. Data reported by the DOP to the Senate Workforce Committee in March 2021 reflected that, on average, there had been roughly 4,000 annual hires over the past four years. Between July 30, 2020 and July 30, 2021, a total of 4,547 lists of eligible applicants were referred by the DOP to the various hiring agencies, which resulted in 1,150 applicants being hired. The director explained to PERD: “The top candidate on a register may not be the most suitable candidate for the position after the interview and background check process is completed and internal applicants are considered.”

In terms of devising new efficiencies in the system, protocols adjusted during the height of the COVID-19 crisis incidentally established faster application processes for some open positions. With the emergence of the pandemic, the DOP began processing applications for 21 specific critical-need healthcare positions on a more urgent, daily basis. The agency also began offering online testing for certain positions that require typing tests and similar prerequisites. The DOP reported in October 2020: “The online enrollment, examination and scoring process is more convenient for applicants from elimination of the testing centers as well as efficiencies in the process.” The agency also believes that this will attract more applicants.

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The DOP Does Not Compare State Agency Sizes with State Population, But Some States Have Imposed Limits on Government Employee Hires

As a component of this requested performance evaluation, PERD was asked to determine if the DOP can compare the size of an agency in terms of staff levels with state population to gauge whether agencies reduce size in correlation with population decreases. W.Va. Code §29-6-5(b)(4) requires the DOP to establish and maintain “*records of employment for classified employees;*” however, PERD agrees with the agency’s view that it is not legally mandated to track correlations between population and government agency staff levels. Rather, the agency’s record-keeping mechanisms are focused solely on classified employees, and not historical state government employment in general. W.Va. Code §29-6-10(11) states that the DOP board has the authority to promulgate provisions “*for keeping records of performance of all employees in the classified service,*” which may be considered in determining:

- *salary increases and decreases provided in the pay plan,*
- *as a factor in promotion tests,*
- *as a factor in determining the order of layoffs because of lack of funds or work and in reinstatement, and*
- *as a factor in demotions, discharges, and transfers.*

Consequently, the agency does not track government employment relative to state population, nor does it possess the capability to do so. The DOP director explained to PERD:

Monitoring the size of agencies in correlation to population change is outside of the statutory purview of the DOP. There is no record-keeping in place to correlate whether an agency’s size is impacted by a change in population. Depending on the mission of the agency and the specific demographic shift, the change in population may have little to no impact on the agency.

Other state legislative bodies have placed, or considered placing, limits on the number of state employees based on population:

- Section 240.185 of Oregon Revised Statutes provides that “*the number of persons employed by the state may not exceed one percent of the state’s population of the prior year.*” The law specifically applies to all FTE-budgeted positions, and mandates that “*the Oregon Department of Administrative Services by December 31 of each even-numbered year shall conduct a workload analysis of each*

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state agency.” The workload analysis is submitted to the Legislative Assembly and accompanies budget requests from various agencies.

- Section 11-11-420 of the South Carolina Code of Laws establishes a limitation on permanent state positions and requires that *“the Executive Budget Office shall annually and prior to December first determine the total number of permanent state positions based on full-time annual equivalency and the total resident population of the State for which data are available.”*
- A proposal in the 2021 Minnesota state budget bill, had it passed, would have required: *“The percentage growth of the total number of full-time equivalent positions employed by all executive branch state agencies from one fiscal year to the next must not exceed the percentage growth of the state population during the same time frame, as projected by the state demographer.”*
- Until its repeal in 2007, a general statute in the State Code of North Carolina stipulated: *“The total number of permanent State-funded employees... shall not be increased by the end of any State fiscal year by a greater percentage than the percentage rate of the residential population growth for the State of North Carolina.”*

If West Virginia were to consider following suit by replicating the Oregon statute, for example, that would effectively reduce the total number of state employees from 36,390 to roughly 17,000, based on the most recent West Virginia population count by the U.S. Census Bureau, which was 1.7 million. **The legislative auditor recommends that the Legislature consider having an independent review conducted that evaluates state programs based on ratios of population served to the level of employment of the programs serving the population. This would require determining best practice ratios of the number of employees to the population being served.**

Collaborative Efforts Between the DOP and Hiring Agencies Can Enhance Efficiencies by Limiting the Number of Redundant Continuous Postings

In addition to internal and public job postings with limited advertisement windows, the hiring agencies may also request a “continuous” status for openings that are critical-need or particularly

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The continuous announcement permits a docket of applicants to populate so that a register can more quickly be provided to a hiring agency in anticipation of frequent or critical vacancies.

difficult to fill. These traditionally include registered nurses, licensed practical nurses, health service workers, child protective service workers, correctional officers, and customer service representatives for the Division of Motor Vehicles. The continuous announcement permits a docket of applicants to populate so that a register can more quickly be provided to a hiring agency in anticipation of frequent or critical vacancies. An analysis of PSAs being advertised by the DOP in February 2022 found that 52 percent (101 out of 196) of the positions being advertised had a continuous closing date.

Since the majority of public postings are continuous at any given time, the DOP attempts to monitor the necessity for continuous statuses, as some of these postings have historically clogged the system. In a 2020 interim study for the Joint Standing Committee on Government Organization, the DOP director explained that in the past “so many titles were on continuous that there was an extremely high volume of applications that had to be rated by staff when very few, or on some occasions no positions assigned to those titles, were ever posted by the agencies.” The agency director also told PERD in August 2021: “The DOP continually evaluates the number of applications received and the number of individuals hired into those classifications to determine if the classification should be transitioned from continuous announcement to public service announcement as needed.”

Re-evaluating continuous postings is another effective method for reducing the number of listings, and in turn, the number of redundant applications being received for review. The DOP director asserted, “The DOP does not want to give applicants a false impression that jobs are currently available when that is not the case.” In some instances, agencies may have seasonal hiring requests in which titles are announced for 30 to 90 days during the relevant months of the year. The DOP has stated that it will sometimes confer with hiring agencies regarding future needs and may change certain positions from continuous to limited advertisement, as appropriate.

To illustrate a specific example, the Division of Natural Resources (DNR) has positions such as wildlife manager and wildlife biologist that are specifically needed towards the beginning of summer and again at the end of the calendar year. According to the DOP director, these positions were previously posted continuously until the DOP Staffing Services team contacted DNR to determine if the positions could be advertised within a limited timeframe instead. The director concluded, “The agency agreed and it has worked well for the hiring positions, but also to limit confusion of applicants who believe the positions are hired year round.” The DNR confirmed that the collaboration with DOP allowed the agency to establish job postings that specifically coincided with college graduations. Evidence from both agencies contends that this type of cooperation can prove fruitful for both parties, as well as

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applicants. **Therefore, the legislative auditor recommends that the DOP should continue collaborating with the covered agencies, when appropriate, to reduce the number of continuous postings and forge efficiencies within the hiring system. The DOP should also consider adding a separate tab for “seasonal/internship” to the drop-down menu on its job opportunities website, as exemplified by the Rhode Island Division of Human Resources’ version of its NEOGOV hiring website.** This could reduce the number of continuous postings and present the types of available jobs in a more organized manner.

When Fully Utilized, NEOGOV Offers an Improved, Modern Approach to the DOP’s Civil Service System

In response to a 2020 interim study, the agency explained, *“The DOP has recently undertaken significant streamlining efforts to the application process.”* This effort was primarily pursued by transitioning to the NEOGOV internal HR software system, beginning in November 2004. The DOP does not currently utilize outdated platforms such as the MS-DOS operating system, as NEOGOV offers an opportunity to modernize the agency’s technological capabilities. With respect to making this technological transition, the DOP director stated in December 2020, *“It has been a challenge to overcome longstanding practices that have been engrained in the training process for this section. It has taken time to change the culture and make the changes necessary to move forward.”*

NEOGOVS is currently utilized by nearly 20 state governments to perform hiring functions, including Pennsylvania, Colorado, Michigan, and Illinois, as well as municipal governments such as Los Angeles, Dallas, Indianapolis, and other large cities. Court systems, school systems, and higher education entities around the United States also utilize NEOGOV to hire employees. A popular product offered by NEOGOV is a function known as “Insight,” which is utilized by other states, as well as the W.Va. DOP. The agency stated in 2020: *“The DOP is working to better and more efficiently utilize NEOGOV Insight which is an applicant tracking system for online application and tracking through the application process.”*

The DOP director further conveyed to PERD that their division is working with covered agencies to incorporate the employee performance appraisal process into a NEOGOV component known as “Perform,” which automates annual employee reviews and offers various digital tools to track worker performance. A December 2019 NEOGOV assessment of the DOP’s utilization of the applicant tracking platform reported that several functions offered by the software were not being engaged. Table 6 exhibits select entries from an updated assessment provided to PERD from the DOP in August 2021 regarding specific NEOGOV tools that had not been initially utilized by the agency. The table also conveys how some software functions were adopted by the DOP between the end

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of 2019 and August 2021. While this demonstrates progress, there are some features that remain underutilized, creating opportunities for future improvement.

**Table 6
The Status of NEOGOV Features Utilized by the DOP**

Insight Feature	Was Feature Being Used by DOP in Dec. 2019?	Comments to DOP by NEOGOV, Dec. 2019	Was Feature Being Used as of Aug. 2021?	Status Update Provided in Aug. 2021
Salary Import	No	Salaries on [classification specifications] can be updated in bulk using the import tool. If you haven't done a salary import before, practice in training first.	Yes	All salaries have been added to classification specifications in NEOGOV. The DOP has added the market rate to job postings at the request of the Joint Committee.
Applicant Self-Scheduling for Interviews and Exams	No	How are candidates scheduled for interviews currently? Would hiring managers be interested in self-scheduling for their candidates?	No	Tests are taken online for tested positions. The agencies schedule applicants for interviews so the Insight interview feature is not utilized by DOP.
Applicant Status/Display Candidate Status	No	Consider using so applicants can check the status and score of their own applications, which can cut down on the inquiries to your office.	Yes	All postings are being updated now with this feature. Automatic notices are sent to applicants. They may also view their profile to see where the application is in the process.
Job Boost (places a posting at the top of the results page to attract more applicants)	No	May want to consider boosting some of the continuous postings to other job boards... *Cost with boosting	No	We do not utilize this functionality but may consider, depending on the cost benefit ratio.

Table 6
The Status of NEOGOV Features Utilized by the DOP

Insight Feature	Was Feature Being Used by DOP in Dec. 2019?	Comments to DOP by NEOGOV, Dec. 2019	Was Feature Being Used as of Aug. 2021?	Status Update Provided in Aug. 2021
Candidate Text Messaging	No	(Self signup add-on service). Send unlimited text messages to candidates regarding their application, interviews, reminders, etc.	No	Once we finish moving all departments to NEOGOV for job postings and get more positions moved to autoscoreing then we will look to enable this feature.
Facebook Integration	No	Automatically post all jobs on the default page to your Organization's Facebook page. Add-on service.	No	We have not explored this option but will in the future. Facebook usage has been on hold as we have worked to improve processes and internal issues.

Sources: Original assessment administered to DOP from NEOGOV; update provided by DOP to PERD, Aug. 2021.

The agency has expressed confidence regarding NEOGOV in multiple written testimonies to PERD. In August 2021, the DOP director summarized, *“The DOP continues to pursue full utilization of the applicant tracking system by integrating processes and does not feel additional technological updates are necessary at this time.”* In January 2022, the director added, *“The DOP believes it is successfully leveraging the applicant tracking platform with NEOGOV and strives to further utilize the analytics capabilities as resources permit.”* The agency has also stated that *“the better use of this system and updating internal processes and procedures to allow for a more expeditious review of applicants”* would allow *“for a more timely service to State agencies.”* **Therefore, the legislative auditor recommends that the DOP should consider implementing any NEOGOV features currently not being utilized that are cost-effective and beneficial to the agency, the hiring departments, and the job applicants.**

While the assessment of DOP’s utilization of NEOGOV garnered helpful comments and feedback directly from the software company, the original documentation indicates that the assessment was conducted

The agency has also stated that “the better use of this system and updating internal processes and procedures to allow for a more expeditious review of applicants” would allow “for a more timely service to State agencies.”

between December 2019 and February 2020. The DOP stated to PERD in August 2021 that there were no immediate plans for an additional assessment. The DOP director specified, *“If we get to a place where assistance is needed, then the DOP will request another assessment from NEOGOV.”* **Therefore, the legislative auditor recommends that the DOP should request a follow-up assessment from NEOGOV by the end of calendar year 2022 to re-evaluate potential progress and/or further opportunity for improvements regarding the agency’s utilization of the hiring system. The DOP should also share the results of the assessment with the Legislature as a status update method.** The assessment could be utilized if additional funding is required to purchase other components of NEOGOV as a means of benefitting the DOP’s civil service system, the originating departments attempting to hire, and the citizens of West Virginia.

The Facebook integration tool offered by NEOGOV should be considered for implementation by the DOP, as this facet is not currently being used, and could be a valuable resource for reaching a wide audience. While the agency has an existing Facebook page, its last post is dated April 2020. It has also been six years since a post was made on the DOP’s LinkedIn account. The following examples from other states would prove beneficial if replicated by the DOP:

- The Hawaii Department of Resources and Development demonstrates how state government can fully engage social media to actively share job postings and advertise recruitment events. This agency consistently shares PSAs on Facebook that can be shared by other users and quickly exposed to more potential job seekers.
- The Pennsylvania Department of Administration promotes user-friendliness with a NEOGOV resources page on the state HR website. This includes helpful links and an 88-page NEOGOV Agency Insight Reference Guide that details the entire job application process and is publicly available.
- The South Carolina Department of Administration also offers an extensive Insight Training Guide based on training materials originally developed by NEOGOV, and publicly available on the state website.

In that regard, the legislative auditor recommends that the DOP should develop a NEOGOV Agency Insight Reference Guide to assist hiring agencies and applicants that may be unfamiliar with the hiring process.

The DOP should also consider sharing the results of the assessment with the Legislature as a status update method. The assessment could be utilized if additional funding is required to purchase other components of NEOGOV as a means of benefitting the DOP’s civil service system, the originating departments attempting to hire, and the citizens of West Virginia.

While the agency has an existing Facebook page, its last post is dated April 2020. It has also been six years since a post was made on the DOP’s LinkedIn account.

Conclusion

From a technological standpoint, the DOP has successfully transitioned the civil service system to the NEOGOV hiring software, which is also used by several other state governments. The agency has acknowledged that improvements can potentially be made by implementing other components of NEOGOV on a cost-effective, as-needed basis when possible. While stringent timelines regarding the application review process within Chapter 29 of W.Va. State Code can prevent a job seeker from being hired quickly in some scenarios, the DOP can bolster efficiencies by collaborating with agencies to reduce the number of continuous job postings that may be receiving redundant applications and clogging the civil service system. Finally, the DOP would likely increase exposure for job advertisements by engaging social media to its full potential, as exemplified by other state governments.

Recommendations

5. *The Legislature should consider having an independent review conducted that evaluates state programs based on ratios of population served to the level of employment of the programs serving the population.*
6. *The DOP should continue collaborating with covered agencies, when appropriate, to reduce the number of continuous postings and forge efficiencies within the hiring system. The DOP should also consider adding a separate tab for “seasonal/internship” to the drop-down menu on its job opportunities website, as exemplified by the Rhode Island Division of Human Resources’ version of its NEOGOV hiring website.*
7. *The DOP should implement any NEOGOV features currently not being utilized that are cost-effective and beneficial to the agency, the hiring departments, and the job applicants.*
8. *The DOP should request a follow-up assessment from NEOGOV by the end of calendar year 2022 to re-evaluate potential progress and/or further opportunity for improvements regarding the agency’s utilization of the hiring system. The DOP should also share the results with the Legislature as a status update method.*
9. *The DOP should develop a NEOGOV Agency Insight Reference Guide to assist hiring agencies and applicants that may be unfamiliar with the hiring process.*

While stringent timelines regarding the application review process within Chapter 29 of W.Va. State Code can prevent a job seeker from being hired quickly in some scenarios, the DOP can bolster efficiencies by collaborating with agencies to reduce the number of continuous job postings that may be receiving redundant applications and clogging the civil service system.

ISSUE 3

There Are Currently Over 300 Full-Time West Virginia State Employees Who May Qualify for Assistance Programs Based on Income

Issue Summary

The audit request for this performance review included an inquiry regarding “an assessment of the many state employees who make minimum wage and still qualify for state assistance.” To pursue the inquiry, PERD analyzed state employee salary reports and consulted the DOP. The resulting analysis determined that between 326 and 383 state employees received a salary that would qualify them for assistance, based on a household of two. Ultimately, PERD could not determine the exact number who receive assistance, as that analysis would require documentation reflecting the number of individuals in each employee’s household, as well as joint income data. Records involving this type of personal information, as well as details regarding non-state employees are outside of PERD’s purview, but efforts were made to include a general approximation within the report.

The resulting analysis determined that between 326 and 383 state employees received a salary that would qualify them for assistance, based on a household of two.

There Are Over 300 Full-Time State Employees Who Earn an Annual Salary of Less Than \$23,000

As part of the DOP audit request, PERD pursued information regarding an inquiry related to an assessment of state employees who receive a salary that would qualify them for assistance programs such as the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families. Table 7 explains the varying income levels based on household income that is used to determine which individuals qualify for SNAP in West Virginia. The maximum annual income (before taxes) for a household of one cannot exceed \$17,000, while a household of two must have an income level below \$23,000 per year.

Records involving this type of personal information, as well as details regarding non-state employees are outside of PERD’s purview, but efforts were made to include a general approximation within the report.

Household Size	Maximum Annual Income Level
1	\$16,744
2	\$22,646
3	\$28,548
4	\$34,450
5	\$40,352

Source: Benefits.gov – the official benefits website of the U.S. government (accessed February 2021).

To be eligible for SNAP, individuals must also:

- be a West Virginia resident,
- have a current bank account balance under \$2,001 for an individual, or
- have a current bank account balance under \$3,001 **and also** share a household with:
 - a person or persons aged 60 and over, or
 - a person with a disability.

These specific stipulations could also impact a state employee's ability to qualify for SNAP, and would be difficult for PERD to determine. However, based on the income eligibility for a two-person household, research was conducted to determine the number of full-time state employees making below \$23,000. When presented this question, the DOP stated in August 2021 that there were 326 state employees earning an annual salary of less than \$23,000. The agency director added, "*The DOP is unable to determine how many state employees qualify for state assistance since DOP does not have access to information pertaining to total household income, secondary employment, other assistance received, etc.*"

The agency director added, "The DOP is unable to determine how many state employees qualify for state assistance since DOP does not have access to information pertaining to total household income, secondary employment, other assistance received, etc."

Additionally, analysis of a June 2021 OASIS employment report containing all state government departments and public higher education entities produced a list of 383 FTEs with a salary under \$23,000. Roughly 40 percent of the individuals in this count were employed by the Division of Health in positions such as housekeeper, cook, and food service worker.

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

1900 Kanawha Blvd. East
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890



John Sylvia
Director

April 22, 2022

Sheryl R. Webb, Director
West Virginia Division of Personnel
1900 Kanawha Boulevard, East
Charleston, WV 25305-0470

Dear Director Webb:

This is to transmit a draft copy of the performance review of the Division of Personnel (DOP). This report is tentatively scheduled to be presented during the May 22-24, 2022, interim meetings of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us by Friday, April 29, 2022. In addition, we need your written response by noon on Friday, May 6, 2022, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, May 19, 2022, to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. However, the Legislative Auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B

Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the Division of Personnel (DOP) as authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the West Virginia Code, as amended. The purpose of the DOP, as established in West Virginia Code §29-6-1 *et seq.*, is to establish and maintain a classified civil service organization, apply a system of compensation, and evaluate applicants for hire within agencies covered by the classified service.

Objectives

The objectives for this review are defined by a request submitted to the Office of the Legislative Auditor that included an inquiry to pursue a selection of specific issues, such as the number of state government job vacancies continuously kept in the system, the possibility that state agencies are “padding” budgets by utilizing vacant salary appropriations for other means, the lack of historical record-keeping with respect to state personnel data, an assessment of the DOP’s technological capabilities, and a determination of the number of state employees who may qualify for public assistance programs based on income.

Scope

The scope of this review revolved around the specific issues raised in the audit request. For the historical vacancy data analyzed for Issue 1, the scope ranged from calendar year 2014 to December 14, 2021, as the main vacancy report used to fulfill the audit objectives contained positions that had been vacant since 2014. Furthermore, the vacancy report itself was executed in mid-December and included all current, real-time vacancies up to that point. Issue 2 involved an updated assessment of the DOP’s use of the NEOGOV hiring software. The update was executed in August 2021 and revised a progress report that NEOGOV had originally conducted for the DOP in February 2020. Personnel data utilized to determine salary information for Issue 3 were calculated from an employment report executed by the State Budget Office (SBO) in June 2021.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. The information gathered and audit procedures are described below.

Testimonial evidence was gathered for this review through interviews conducted with the DOP and the SBO. The testimonial evidence was confirmed by written statements, and in some cases, additional collections of corroborating evidence. Written testimony was also gathered from the Division of Natural Resources to confirm specific DOP testimony. A third-party assessment conducted by the NEOGOV software company was also utilized to gauge the DOP’s level of technological effectiveness.

PERD used data from the State’s “Our Advanced Solution Integrated Systems” (OASIS) for the analysis of vacant positions, classified status, full-time equivalent status, and corresponding salaries, as well as a method of determining the total number of West Virginia state employees. Unique composite reports from the SBO were also used to analyze employment data that, unlike standard OASIS reports, included data

from the State's largest public universities. PERD determined the information in OASIS to be sufficient and appropriate.

Multiple job searches were also executed for known vacant positions on the DOP's official job opportunities website, as well as other pertinent state agency websites (for those entities that are not covered by the classified system and conduct their own hiring). The DOP's social media accounts were also reviewed to determine the agency's level of engagement with respect to that method of outreach. Lastly, PERD used the federal standards regarding SNAP qualifications to address Issue 3. Data from the United States Census Bureau's most recent population estimates were used to determine factors within Issue 1.

The Office of the Legislative Auditor reviews the statewide single audit and the Division of Highways financial audit annually with regards to any issues related to the State's financial system known as the West Virginia Our Advanced Solution with Integrated Systems (OASIS). The Legislative Auditor's staff requests and reviews on a quarterly basis any external or internal audit of OASIS. In addition, through its numerous audits, the Office of the Legislative Auditor continuously tests the OASIS financial information. PERD also asks audited agencies if they have encountered any issues of accuracy with OASIS data. Based on these actions, along with the audit tests conducted on audited agencies, it is our professional judgement that the information in OASIS is reasonably accurate for auditing purposes under the 2018 Government Auditing Standards (Yellowbook). However, in no manner should this statement be construed as a statement that 100 percent of the information in OASIS is accurate.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C

Budgeted Vacant Positions by the Year They Became Vacant for the Four Agencies with the Greatest Number of Budgeted Vacancies

Division of Health				
Budgeted Vacant Positions by the Year They Became Vacant				
Budgeted Amounts for All Funds				
December 2021				
Vacancy Origination Year	Number of Vacancies	Total Annual Salaries	Estimated Employee Benefits*	Grand Total Vacancy Appropriations
2014	9	\$264,972	\$84,791	\$349,763
2015	4	\$149,913	\$47,972	\$197,885
2016	28	\$1,056,874	\$338,200	\$1,395,074
2017	33	\$1,261,609	\$403,715	\$1,665,323
2018	91	\$3,318,121	\$1,061,799	\$4,379,920
2019	110	\$3,504,614	\$1,121,476	\$4,626,090
2020	164	\$5,347,158	\$1,711,090	\$7,058,248
2021	376	\$12,184,616	\$3,899,077	\$16,083,693
Totals	815	\$27,087,877	\$8,668,120	\$35,755,996

Source: PERD analysis of OASIS vacancy report WV-HRP-PC-010.
*Benefits estimation is based on 32 percent of total salary, which PERD derived from a sample of state agency budgets.

Division of Corrections and Rehabilitation				
Budgeted Vacant Positions by the Year They Became Vacant				
Budgeted Amounts for All Funds				
December 2021				
Vacancy Origination Year	Number of Vacancies	Total Annual Salaries	Estimated Employee Benefits*	Grand Total Vacancy Appropriations
2014	0	-	-	-
2015	0	-	-	-
2016	0	-	-	-
2017	2	\$54,603	\$17,473	\$72,076
2018	33	\$852,720	\$272,870	\$1,125,590
2019	51	\$1,440,305	\$460,897	\$1,901,202
2020	123	\$3,832,607	\$1,226,434	\$5,059,041
2021	603	\$19,112,705	\$6,116,066	\$25,228,771
Totals	812	\$25,292,940	\$8,093,740	\$33,386,680

Source: PERD analysis of OASIS vacancy report WV-HRP-PC-010.
*Benefits estimation is based on 32 percent of total salary, which PERD derived from a sample of state agency budgets.

Division of Human Services Budgeted Vacant Positions by the Year They Became Vacant Budgeted Amounts for All Funds December 2021				
Vacancy Origination Year	Number of Vacancies	Total Annual Salaries	Estimated Employee Benefits*	Grand Total Vacancy Appropriations
2014	0	-	-	-
2015	0	-	-	-
2016	6	\$149,233	\$47,755	\$196,988
2017	3	\$91,024	\$29,128	\$120,151
2018	15	\$505,016	\$161,605	\$666,621
2019	39	\$1,375,195	\$440,062	\$1,815,257
2020	70	\$2,114,356	\$676,594	\$2,790,950
2021	468	\$14,894,026	\$4,766,088	\$19,660,114
Totals	599	\$19,128,850	\$6,121,232	\$25,250,081

Source: PERD analysis of OASIS vacancy report WV-HRP-PC-010.
 *Benefits estimation is based on 32 percent of total salary, which PERD derived from a sample of state agency budgets.

Division of Highways Budgeted Vacant Positions by the Year They Became Vacant Budgeted Amounts for All Funds December 2021				
Vacancy Origination Year	Number of Vacancies	Total Annual Salaries	Estimated Employee Benefits*	Grand Total Vacancy Appropriations
2014	0	-	-	-
2015	0	-	-	-
2016	0	-	-	-
2017	0	-	-	-
2018	1	\$26,106	\$8,354	\$34,460
2019	1	\$53,413	\$17,092	\$70,506
2020	25	\$932,351	\$298,352	\$1,230,704
2021	311	\$12,006,047	\$3,841,935	\$15,847,982
Totals	338	\$13,017,917	\$4,165,733	\$17,183,652

Source: PERD analysis of OASIS vacancy report WV-HRP-PC-010.
 *Benefits estimation is based on 32 percent of total salary, which PERD derived from a sample of state agency budgets.

Appendix D

Agency Responses



Sheryl R. Webb, Director
Mark D. Scott, Cabinet Secretary

April 29, 2022

John Sylvia, Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Blvd., East, Room W-329
Charleston, WV 25305-0610

Dear Mr. Sylvia:

This letter is in response to your attached letter of April 22, 2022, regarding the draft copy of the performance review of the West Virginia Division of Personnel (DOP). Please find below a summary of the recommendations pertaining to the DOP and the DOP's response to each.

4. *The DOP should continue collaborating with covered agencies, when appropriate, to reduce the number of continuous postings and forge efficiencies within the hiring system.*

The DOP has found this to be an effective practice and will certainly continue utilizing it and making improvements where possible.

The report further states:

“Therefore, the legislative auditor recommends that the DOP should continue to collaborate with the covered agencies, when appropriate, to reduce the number of continuous postings and forge efficiencies within the hiring system. The DOP should also consider adding a separate tab for “seasonal/internship” to the drop-down menu on its job opportunities website, as exemplified by the Rhode Island Division of Human Resources’ version of its NEOGOV hiring website. This could reduce the number of continuous postings and present the types of available jobs in a more organized manner.”

Temporary employment and internships are generally advertised and applicants hired by each agency. The DOP does assist agencies to fill those positions when needed. There are positions that agencies recruit for at specific times of the year and the DOP will work to find a solution to highlight those positions in a different area of the posting page.

5. *The DOP should implement any NEOGOV features currently not being utilized that are cost-effective and beneficial to the agency, the hiring departments, and the job applicants.*

Building 3, Suite 500, 1900 Kanawha Boulevard, East, Charleston, West Virginia 25305-0139
TEL: 304.558.3950 VISIT OUR WEBPAGE AT: www.personnel.wv.gov FAX: 304.957.0141

THE DIVISION OF PERSONNEL IS AN EQUAL OPPORTUNITY EMPLOYER



The DOP agrees and continues to work with NEOGOV to implement available features.

6. *The DOP should request a follow-up assessment from NEOGOV by the end of calendar year 2022 to re-evaluate potential progress and/or further opportunity for improvements regarding the agency's utilization of the hiring system. The DOP should also consider sharing the results with the Legislature.*

The DOP will work with NEOGOV to request a follow-up assessment and share the results with the Legislature when they are available.

7. *The DOP should develop a NEOGOV Agency Insight Reference Guide to assist hiring agencies and applicants that may be unfamiliar with the system.*

The DOP was in the process of updating internal operating procedures and will incorporate the information with existing DOP training material to create a reference guide for agencies.

Though not part of the recommendations for the DOP, the DOP would like to clarify the following language found on page 2 of the report: "The Division of Highways is no longer a part of the DOP hiring system after receiving approval by the State Personnel Board in August 2020 to establish its own classification specifications, pay plan policy changes, and pay grade changes." The State Personnel Board did approve the classification specifications, pay plan policy changes, and pay grade changes; however, the Division of Highways was exempted from the DOP hiring process pursuant to W. Va. Code § 17-2A-24, enacted during the 2017 Second Extraordinary Session of the Legislature.

The DOP appreciates the thorough report and recommendations as well as the opportunity to respond to your findings. A representative from the DOP will be present at the interim meeting during which the report will be presented to the Joint Committee on Government Operations and the Joint Committee on Government Organization.

Should you have any further questions regarding this matter, please contact me at 304-414-0816.

Sincerely,

A handwritten signature in blue ink that reads "Sheryl R. Webb". Below the signature is the printed name "Sheryl R. Webb" and the title "Director" in a black sans-serif font.

Sheryl R. Webb
Director

SRW:jt

Attachment



DEPARTMENT OF REVENUE

STATE BUDGET OFFICE
BUILDING 1, ROOM W310
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WEST VIRGINIA 25305

Dave Hardy
CABINET SECRETARY

August 29, 2022

Lukas Griffith, Research Analyst
Performance Evaluation & Research Division
State Capitol Complex
Building 1, Room W-314
1900 Kanawha Boulevard, East

Dear Mr. Griffith:

Thank you for the opportunity to submit comments related to the May 2022 Legislative Auditor's Report detailing yearly budget appropriations and vacant positions.

As has been previously discussed with you during this process, the information contained within your report does accurately reflect budget bill appropriated funding for Personal Services and Employee Benefits. And within that specific appropriation, there is funding included for both filled and unfilled positions within each agency's respective budget.

Also as included in your report, there are and continue to be unfilled positions (vacancies) within state agencies that have been budgeted but remain unfilled.

However, as we have also discussed, one has to look at those numbers within context and through a budgetary framework to fully understand and appreciate the complexities of budgeting and the difficult task certain agencies face filling positions.

It is not my intention to get into agency specific difficulties with filling vacancies, rather I would prefer to address the overall budgeting impacts of your report.

First and foremost, my main concern is that this report could lead to a potential misunderstanding that millions of dollars are being appropriated for vacant positions that are not being used properly or could be better used for other purposes. While I understand those as easy conclusions, the facts surrounding the appropriations do not necessarily support the assumptions.

Each year agencies submit their budget requests for the next ensuing fiscal budget year. Those requests are statutorily due on September 1 of each year for a budget that will not become effective until July 1 of the next year through June 30 of the following year. For your consideration, agencies are basing their

September 1 statutorily required budget requests for programmatic expenses that will not begin to occur until nine months later (July 1) and will then continue to occur for 12 months thereafter (June 30.)

Included with the agency request is annualized funding for personal services and employee benefits for both filled and unfilled positions within each respective agency. Agencies are required to request full annualized funding for each position as though the positions are filled. Your report conclusion included a statement that “State general funds supported nearly 2,300 vacant positions as of December 31, 2021.” However, it is important to note that even though a position may be vacant for a significant portion of a fiscal year, if the position becomes filled within that fiscal year, the accounting system (and good budgeting) requires the annualized amount of that position to be budgeted because moving forward, that base budgeted amount will be necessary for future fiscal years.

Also included in your report are positions that have remained unfilled. We have discussed with you some of the difficulties agencies face when trying to fill those positions. The biggest budgeted vacancy issues included in your report, not surprisingly are with the Department of Health and Human Resources and the Division of Corrections. Each of these agencies is known for critical staffing shortages.

Since those agencies are faced with critical staffing issues, they (like all agencies) have the ability to transfer Legislatively budgeted amounts from vacant positions to other items of appropriation within their budget for example, to have a contractual services line pay for contract nurses, or to have overtime pay for Correctional Officers. Please note, this does not increase the agency’s overall operating budget, nor does it change the overall fund total as appropriated by the Legislature. It simply grants the agency the flexibility to realign their respective budgets to where it is needed to fulfill, in this instance, a staffing shortfall issue. Also equally important, agencies are not allowed to transfer into the budget appropriation for Personal Services and Employee Benefits. Agencies are only allowed to transfer money from Personal Services and Employee Benefits to other appropriations within their respective budgets.

As mentioned above, another concern is the historically vacant positions especially for Department of Health and Human Resources. The large number of these vacancies could be related to hard to fill positions like RNs, LPNs and other similarly classed workers. This is especially critical in the state hospitals that have had to resort to contract workers to fulfill services. If there were a sweep of the budgeted positions and associated funding then the state hospitals would not be able to hire the contract workers to keep the hospitals open.

With all of that being considered, it is important to also understand that at the end of the fiscal year there is no gain for the agency. Any budget that was appropriated to a vacant position that was not transferred to another item of appropriation within an agency’s budget is automatically expired at the end of each fiscal year and becomes part of the unappropriated surplus balance available for future appropriation by the Legislature. So while the Legislatively budgeted appropriations may be transferred within an agency’s budget, or realigned for expenditure, the overall budget has not changed and any remaining or unspent appropriation is expired at the end of the fiscal year.

Conversely, in order to capture the funding at the front end of the budget process, the vacant positions within each agency would have to be deactivated – meaning the agency would no longer have the position or budget to hire an employee. Now faced with an actual budget reduction and no flexibility for the agency to transfer funds between items of appropriation to maintain services, the agency would be underfunded.

Summary and other items for your consideration:

- Vacant permanent position dollars are often used to offset the cost/outlay/expense of contract or temporary hire employees when the permanent positions cannot be filled for a variety of issues, including lack of applicants, no qualified applicants, or applicants turning down offers, etc. For example, state run hospitals utilize contract nurses to maintain required patient-to-staff ratios when positions cannot be filled.
- The funding attached to vacant permanent positions may be used during the time they are vacant to supplement overtime pay for existing/remaining employees to cover job duties of the vacant positions.
- Some Federal grant requirements can require a set number of positions be budgeted (and never intended to be filled at the state level) to allow and/or continue state control of programs.

In response to your report recommendations:

Recommendations:

The Legislature should consider prohibiting State General Fund appropriations for positions that have been vacant longer than a certain length of time such as three or four years.

Both the Executive Branch and the Legislative Branch have used certain dated vacancies for budget reductions and realignment over the past several years, again noting some exception to both the Department of Health and Human Resources and the Division of Corrections and Rehabilitation Services.

The Legislature should consider requiring some accountability of state agencies in budgeting for vacant positions. Such measures to consider include separate reporting of vacant positions that includes the date in which vacant positions became vacant, the associated salaries, and benefits. In addition, the Legislature should consider requiring an explanation for why positions have been vacant for considerable lengths of time, the likelihood that positions will be filled, and a justification statement as to why the Legislature should fund the requested vacant positions.

There has been and continues to be an ongoing Executive Branch project to require a higher-level approval for any agency to post positions that have been vacant for twelve or more months.

The Legislature should consider working with the State Budget Office and Executive Branch agencies to link line items for personal services within the budget bill to the specific programs for which those personal services are to be allocated.

Volume II, Operating Detail, of the Governor's Budget includes programmatic details related operations of agencies including the number of employees assigned to those programs.

The Legislature should also consider initiating an annual report be done that would calculate state agencies' turnover and vacancy rates, and compile historical data on filled and vacant positions.

The state Budget Office continues to update employment information as positions are changing every day. There are new positions added, reallocated, deactivate, source changed, etc. We have some reports and templates that we could potentially use to work with the Legislature to achieve this type of report. For example, Volume I, Budget Report includes employment reports based

on an 11/30 Department/Agency FTE schedule and also a Department/Agency report based on separate funding sources.

Again, thank you for the opportunity to provide a written response to your findings. I hope you find them helpful as you move forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Cook". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Cook".

Michael Cook, Director
State Budget Office



WEST VIRGINIA OFFICE OF THE LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

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