

WEST VIRGINIA LEGISLATURE

2016 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 116

BY MR. SPEAKER (MR. ARMSTEAD)

BY REQUEST OF THE EXECUTIVE

[Introduced May 31, 2016;

Referred to the Committee on the Judiciary then

Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §5-1-30, relating to authorizing the Governor to issue executive orders to
3 furlough state employees and pay certain obligations in the event of a fiscal emergency.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §5-1-30, to read as follows:

ARTICLE 1. THE GOVERNOR.

§5-1-30. Authority to issue executive orders enabling the furlough of state employees and to meet certain financial obligations of the state in the event of a fiscal emergency.

1 (a) Definitions.

2 “Furlough” means a mandatory, temporary, unpaid leave of absence required pursuant to
3 an executive order issued by the Governor and subject to the conditions set forth in this section.

4 “Fiscal emergency” means circumstances where there is an overdraft or deficit in the state
5 fund, general revenue, or where there is an anticipated deficit in the state fund, general revenue,
6 or where a budget bill has not been enacted in any fiscal year, and revenues are inadequate for
7 the state to make timely payments of its obligations, including, but not limited to, its debt service
8 payment obligations on outstanding bonds.

9 (b) Furlough.

10 Where a fiscal emergency occurs in any fiscal year, the Governor may by executive order
11 institute state employee furloughs of limited or indefinite duration as an alternative to a reduction
12 in force, subject to the following conditions:

13 (1) The furlough must be inclusive of all employees within a designated department,
14 agency, division, office, or program, regardless of the source of funds, place of work, or
15 classification.

16 (2) Where a furlough has been instituted, the Governor shall instruct the chief
17 administrator of an affected department, agency, division, office, or program to create a schedule

18 for furlough days or portions of furlough days. Under no circumstances may a department,
19 agency, division, office, or program close completely.

20 (3) Constitutional officers are exempt from furlough.

21 (4) An executive order issued pursuant to this section shall address whether affected state
22 employees are entitled to participate in the same state benefits as otherwise available to them
23 during the period of the furlough and the manner in which they may participate.

24 (5) Placement of a state employee on furlough under this section shall not give rise to the
25 right of a grievance or appeal to the West Virginia Public Employees Grievance Board.

26 (6) An executive order issued pursuant to this section shall address whether a state
27 employee's reduction in compensation may be allocated over the balance of the fiscal year rather
28 than solely in the pay period(s) in which the furlough occurs.

29 (c) Payment of certain obligations in the absence of a budget bill.

30 During a fiscal emergency, the Governor shall have plenary power and authority to issue
31 an executive order directing the payment of certain obligations of the state, which are otherwise
32 traditionally appropriated by the Legislature. The Governor shall also have the authority to direct
33 payment of bonds or notes of the state or its agencies, boards and commissions. The Treasurer
34 and Auditor shall make the payments as directed by the Governor. The executive order(s) shall
35 ensure that debts will continue to be paid during a fiscal emergency, regardless of whether a
36 budget bill has been enacted.

NOTE: The purpose of this bill is to authorize the Governor to issue executive orders to furlough state employees and pay certain debt obligations in the event of a fiscal emergency.

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