

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 446

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND PREZIOSO

(BY REQUEST OF THE EXECUTIVE)

[Introduced February 27, 2017; Referred
to the Committee on the Judiciary; and then to the
Committee on 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.

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.

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
 6 Revenue, or where a budget bill has not been enacted in any fiscal year, and revenues are
 7 inadequate for the state to make timely payments of its obligations, including, but not limited to,
 8 its debt service 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 does 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 or periods in which the furlough occurs.

NOTE: The purpose of this bill is to authorize the Governor to issue executive orders to furlough state employees.

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