

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2720

**FISCAL
NOTE**

BY DELEGATE CRISS

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

[Introduced February 24, 2021; Referred to the
Committee on Workforce Development then
Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §5F-2-8, relating to establishing a merit-based system for personnel
3 administration for the agencies, authorities, boards, and commissions within the
4 Department of Transportation; authorizing the Secretary of Transportation to establish
5 system; preserving existing due process protections in state law; requiring compliance
6 with state law regarding nepotism, favoritism, discrimination, and ethics in the employment
7 process; prohibiting actions with a negative effect on federal funding; requiring inter-
8 agency cooperation; authorizing rule-making; and setting an implementation date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-8. Special merit based personnel system Department of Transportation employees.

1 (a) In order to attract and retain employees in the Department of Transportation, the
2 secretary of the department shall establish a system of personnel administration based on merit
3 principles and scientific methods governing the appointment, promotion, transfer, layoff, removal,
4 discipline, classification, compensation, and welfare of its employees, and other incidents of state
5 employment. All appointments and promotions to positions shall be made solely on the basis of
6 merit and fitness for the position.

7 (b) The merit system shall be founded on effective performance management principles
8 in order to set clear goals, provide efficient and effective services for our citizens and to develop,
9 appraise and reward employees for being responsible and performing as required.

10 (c) Notwithstanding any provision of this code or rule to the contrary, employees and
11 positions within the various agencies, boards, commissions, and divisions within the Department
12 of Transportation currently governed by the provisions of §29-6-1 et seq. of this code shall on and
13 after October 31, 2021, all be subject to the merit-based system. The department's employees
14 may be afforded due process protections through the existing provisions of the public employees
15 grievance procedure or other means that assures all of the protections required by law.

16 (d) The Department of Transportation personnel administration system is not exempt from
17 the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices
18 related to the employment process.

19 (e) The Department of Transportation personnel administration system may not be applied
20 in any manner that would disqualify the department or its agencies, boards, commissions, or
21 divisions for eligibility for any federal funding or assistance.

22 (f) The Division of Personnel shall, upon request of the Secretary of Transportation, take
23 any action necessary to assist the department in completing this transition in an orderly and
24 efficient manner.

25 (g) The Secretary of Transportation may propose rules for legislative approval in
26 accordance with the provisions of §29A-3-1 et seq. of this code and may promulgate emergency,
27 procedural, and interpretive rules to implement the provisions of this section.

28 (h) The implementation of the provisions of this section shall be completed by October 31,
29 2022.

NOTE: The purpose of this bill is to allow the Secretary of the Department of Transportation to establish a merit based personnel administration system for all of the department's employees. The DOT will have until October 31, 2022, to establish the new system.

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